

House Study Bill 664

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON MADDOX)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the revised Iowa nonprofit corporation Act and
2 providing penalties and effective and applicability dates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6062HC 80
5 av/cf/24

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1 1 SUBCHAPTER I
1 2 GENERAL PROVISIONS
1 3 PART 1
1 4 SHORT TITLE AND APPLICATIONS
1 5 Section 1. NEW SECTION. 504.101A SHORT TITLE.
1 6 This chapter shall be known and may be cited as the
1 7 "Revised Iowa Nonprofit Corporation Act".
1 8 Sec. 2. NEW SECTION. 504.101B RESERVATION OF POWER TO
1 9 AMEND OR REPEAL.
1 10 The general assembly has power to amend or repeal all or
1 11 part of this chapter at any time and all domestic and foreign
1 12 corporations subject to this chapter are governed by the
1 13 amendment or repeal.
1 14 PART 2
1 15 FILING DOCUMENTS
1 16 Sec. 3. NEW SECTION. 504.111 FILING REQUIREMENTS.
1 17 1. A document must satisfy the requirements of this
1 18 section, and of any other section that adds to or varies these
1 19 requirements, to be entitled to filing by the secretary of
1 20 state.
1 21 2. This chapter must require or permit filing the document
1 22 in the office of the secretary of state.
1 23 3. The document must contain the information required by
1 24 this subchapter. It may contain other information as well.
1 25 4. The document must be typewritten or printed. If the
1 26 document is electronically transmitted, it must be in a format
1 27 that can be retrieved or reproduced in typewritten or printed
1 28 form.
1 29 5. The document must be in the English language. However,
1 30 a corporate name need not be in English if written in English
1 31 letters or Arabic or Roman numerals. The certificate of
1 32 existence required of foreign corporations need not be in
1 33 English if accompanied by a reasonably authenticated English
1 34 translation.
1 35 6. The document must be executed by one of the following:
2 1 a. The presiding officer of the board of directors of a
2 2 domestic or foreign corporation, its president, or by another
2 3 of its officers.
2 4 b. If directors have not been selected or the corporation
2 5 has not been formed, by an incorporator.
2 6 c. If the corporation is in the hands of a receiver,
2 7 trustee, or other court-appointed fiduciary, by that
2 8 fiduciary.
2 9 7. The person executing a document shall sign it and state
2 10 beneath or opposite the signature the person's name and the
2 11 capacity in which the person signs. The document may contain
2 12 a corporate seal, an attestation, an acknowledgment, or a
2 13 verification.
2 14 8. If the secretary of state has prescribed a mandatory
2 15 form for a document under section 504.112, the document must
2 16 be in or on the prescribed form.
2 17 9. The document must be delivered to the office of the
2 18 secretary of state for filing. Delivery may be made by
2 19 electronic transmission if and to the extent permitted by the
2 20 secretary of state. If it is filed in typewritten or printed
2 21 form and not transmitted electronically, the secretary of
2 22 state may require one exact or conformed copy to be delivered

2 23 with the document, except as provided in sections 504A.503 and
2 24 504.1509.

2 25 10. When the document is delivered to the office of the
2 26 secretary of state for filing, the correct filing fee, and any
2 27 franchise tax, license fee, or penalty, shall be paid in a
2 28 manner permitted by the secretary of state.

2 29 11. The secretary of state may adopt rules for the
2 30 electronic filing of documents and the certification of
2 31 electronically filed documents.

2 32 Sec. 4. NEW SECTION. 504.112 FORMS.

2 33 1. The secretary of state may prescribe and furnish on
2 34 request, forms for an application for a certificate of
2 35 existence, a foreign corporation's application for a
3 1 certificate of authority to transact business in this state, a
3 2 foreign corporation's application for a certificate of
3 3 withdrawal, and the biennial report. If the secretary of
3 4 state so requires, use of these forms is mandatory.

3 5 2. The secretary of state may prescribe and furnish on
3 6 request forms for other documents required or permitted to be
3 7 filed by this chapter but their use is not mandatory.

3 8 Sec. 5. NEW SECTION. 504.113 FILING, SERVICE, AND
3 9 COPYING FEES.

3 10 1. The secretary of state shall collect the following
3 11 fees, as provided by the secretary of state, when the
3 12 documents described in this subsection are delivered for
3 13 filing:

DOCUMENT	FEE
a. Articles of incorporation	\$ _____
b. Application for use of indistinguishable name	\$ _____
c. Application for reserved name	\$ _____
d. Notice of transfer of reserved name	\$ _____
e. Application for registered name	\$ _____
f. Application for renewal of registered name ...	\$ _____
g. Corporation's statement of change of registered agent or registered office or both	\$ _____
h. Agent's statement of change of registered office for each affected corporation not to exceed a total of	\$ _____
i. Agent's statement of resignation	no fee
j. Amendment of articles of incorporation	\$ _____
k. Restatement of articles of incorporation with amendments	\$ _____
l. Articles of merger	\$ _____
m. Articles of dissolution	\$ _____
n. Articles of revocation of dissolution	\$ _____
o. Certificate of administrative dissolution	\$ _____
p. Application for reinstatement following administrative dissolution	\$ _____
q. Certificate of reinstatement	no fee
r. Certificate of judicial dissolution	no fee
s. Application for certificate of authority	\$ _____
t. Application for amended certificate of authority	\$ _____
u. Application for certificate of withdrawal	\$ _____
v. Certificate of revocation of authority to transact business	no fee
w. Biennial report	\$ _____
x. Articles of correction	\$ _____
y. Application for certificate of existence or authorization	\$ _____
z. Any other document required or permitted to be filed by this Act	\$ _____

4 16 2. The secretary of state shall collect a fee upon being
4 17 served with process under this chapter. The party to a
4 18 proceeding causing service of process is entitled to recover
4 19 the fee paid the secretary of state as costs if the party
4 20 prevails in the proceeding.

4 21 3. The secretary of state shall collect fees for copying
4 22 and certifying the copy of any filed document relating to a
4 23 domestic or foreign corporation.

4 24 Sec. 6. NEW SECTION. 504.114 EFFECTIVE DATE OF DOCUMENT.

4 25 1. Except as provided in subsection 2 and section 504.115,
4 26 a document is effective at the later of the following times:

4 27 a. At the date and time of filing, as evidenced by such
4 28 means as the secretary of state may use for the purpose of
4 29 recording the date and time of filing.

4 30 b. At the time specified in the document as its effective
4 31 time on the date it is filed.

4 32 2. A document may specify a delayed effective time and
4 33 date, and if it does so the document becomes effective at the

4 34 time and date specified. If a delayed effective date but no
4 35 time is specified, the document is effective at the close of
5 1 business on that date. A delayed effective date for a
5 2 document shall not be later than the ninetieth day after the
5 3 date filed.

5 4 Sec. 7. NEW SECTION. 504.115 CORRECTING FILED DOCUMENT.

5 5 1. A domestic or foreign corporation may correct a
5 6 document filed by the secretary of state if the document
5 7 satisfies one of the following:

5 8 a. The document contains an inaccuracy.
5 9 b. The document was defectively executed, attested,
5 10 sealed, verified, or acknowledged.

5 11 c. The electronic transmission was defective.

5 12 2. A document is corrected by doing both of the following:

5 13 a. By preparing articles of correction that satisfy all of
5 14 the following requirements:

5 15 (1) Describe the document, including its filing date, or
5 16 attaching a copy of the document to the articles.

5 17 (2) Specify the inaccuracy or defect to be corrected.

5 18 (3) Correct the incorrect statement or defective
5 19 execution.

5 20 b. By delivering the articles of correction to the
5 21 secretary of state for filing.

5 22 3. Articles of correction are effective on the effective
5 23 date of the document they correct except as to persons relying
5 24 on the uncorrected document and adversely affected by the
5 25 correction. As to those persons, articles of correction are
5 26 effective when filed.

5 27 Sec. 8. NEW SECTION. 504.116 FILING DUTY OF SECRETARY OF
5 28 STATE.

5 29 1. If a document delivered to the office of the secretary
5 30 of state for filing satisfies the requirements of section
5 31 504.111, the secretary of state shall file it.

5 32 2. The secretary of state files a document by recording
5 33 the document as filed on the date and the time of receipt.
5 34 After filing a document, except as provided in sections
5 35 504.503 and 504.1510, the secretary of state shall deliver to
6 1 the domestic or foreign corporation or its representative a
6 2 copy of the document with an acknowledgment of the date and
6 3 time of filing.

6 4 3. Upon refusing to file a document, the secretary of
6 5 state shall return it to the domestic or foreign corporation
6 6 or its representative, together with a brief, written
6 7 explanation of the reason or reasons for the refusal.

6 8 4. The secretary of state's duty to file documents under
6 9 this section is ministerial. Filing or refusal to file a
6 10 document does not do any of the following:

6 11 a. Affect the validity or invalidity of the document in
6 12 whole or in part.

6 13 b. Relate to the correctness or incorrectness of
6 14 information contained in the document.

6 15 c. Create a presumption that the document is valid or
6 16 invalid or that information contained in the document is
6 17 correct or incorrect.

6 18 Sec. 9. NEW SECTION. 504.117 APPEAL FROM SECRETARY OF
6 19 STATE'S REFUSAL TO FILE DOCUMENT.

6 20 1. If the secretary of state refuses to file a document
6 21 delivered for filing to the secretary of state's office, the
6 22 domestic or foreign corporation may appeal the refusal to the
6 23 district court in the county where the corporation's principal
6 24 office, or if there is none in this state, its registered
6 25 office, is or will be located. The appeal is commenced by
6 26 petitioning the court to compel filing the document and by
6 27 attaching to the petition the document and the secretary of
6 28 state's explanation of the refusal to file.

6 29 2. The court may summarily order the secretary of state to
6 30 file the document or take other action the court considers
6 31 appropriate.

6 32 3. The court's final decision may be appealed as in other
6 33 civil proceedings.

6 34 Sec. 10. NEW SECTION. 504.118 EVIDENTIARY EFFECT OF COPY
6 35 OF FILED DOCUMENT.

7 1 A certificate from the secretary of state delivered with a
7 2 copy of a document filed by the secretary of state is
7 3 conclusive evidence that the original document is on file with
7 4 the secretary of state.

7 5 Sec. 11. NEW SECTION. 504.119 CERTIFICATE OF EXISTENCE.

7 6 1. Any person may apply to the secretary of state to
7 7 furnish a certificate of existence for a domestic or foreign
7 8 corporation.

7 9 2. The certificate of existence shall set forth all of the

7 10 following:

7 11 a. The domestic corporation's corporate name or the
7 12 foreign corporation's corporate name used in this state.

7 13 b. That the domestic corporation is duly incorporated
7 14 under the laws of this state, the date of its incorporation,
7 15 and the period of its duration if less than perpetual; or that
7 16 the foreign corporation is authorized to transact business in
7 17 this state.

7 18 c. That all fees, taxes, and penalties owed to this state
7 19 have been paid, if payment is reflected in the records of the
7 20 secretary of state and nonpayment affects the good standing of
7 21 the domestic or foreign corporation.

7 22 d. That its most recent biennial report required by
7 23 section 504.1613 has been delivered to the secretary of state.

7 24 e. That articles of dissolution have not been filed.

7 25 f. Other facts of record in the office of the secretary of
7 26 state that may be requested by the applicant.

7 27 3. Subject to any qualification stated in the certificate,
7 28 a certificate of existence issued by the secretary of state
7 29 may be relied upon as conclusive evidence that the domestic or
7 30 foreign corporation is in good standing in this state.

7 31 Sec. 12. NEW SECTION. 504.120 PENALTY FOR SIGNING FALSE
7 32 DOCUMENT.

7 33 1. A person commits an offense by signing a document the
7 34 person knows is false in any material respect with intent that
7 35 the document be delivered to the secretary of state for
8 1 filing.

8 2 2. An offense under this section is a serious misdemeanor
8 3 punishable by a fine not to exceed one thousand dollars.

8 4 PART 3

8 5 SECRETARY OF STATE

8 6 Sec. 13. NEW SECTION. 504.131 POWERS.

8 7 The secretary of state has all powers reasonably necessary
8 8 to perform the duties required of the secretary of state's
8 9 office by this chapter.

8 10 PART 4

8 11 DEFINITIONS

8 12 Sec. 14. NEW SECTION. 504.141 CHAPTER DEFINITIONS.

8 13 As used in this chapter, unless the context otherwise
8 14 requires:

8 15 1. "Approved by the members" or "approval by the members"
8 16 means approved or ratified by the affirmative vote of a
8 17 majority of the votes represented and voting at a duly held
8 18 meeting at which a quorum is present which affirmative votes
8 19 also constitute a majority of the required quorum or by a
8 20 written ballot or written consent in conformity with this
8 21 chapter or by the affirmative vote, written ballot, or written
8 22 consent of such greater proportion, including the votes of all
8 23 the members of any class, unit, or grouping as may be provided
8 24 in the articles, bylaws, or this chapter for any specified
8 25 member action.

8 26 2. "Articles of incorporation" or "articles" includes
8 27 amended and restated articles of incorporation and articles of
8 28 merger.

8 29 3. "Board" or "board of directors" means the board of
8 30 directors of a corporation except that no person or group of
8 31 persons are the board of directors because of powers delegated
8 32 to that person or group pursuant to section 504.801.

8 33 4. "Bylaws" means the code or codes of rules other than
8 34 the articles adopted pursuant to this chapter for the
8 35 regulation or management of the affairs of a corporation
9 1 irrespective of the name or names by which such rules are
9 2 designated.

9 3 5. "Class" means a group of memberships which have the
9 4 same rights with respect to voting, dissolution, redemption,
9 5 and transfer. For purposes of this section, rights shall be
9 6 considered the same if they are determined by a formula
9 7 applied uniformly.

9 8 6. "Corporation" means a public benefit, mutual benefit,
9 9 or religious corporation.

9 10 7. "Delegates" means those persons elected or appointed to
9 11 vote in a representative assembly for the election of a
9 12 director or directors or on other matters.

9 13 8. "Deliver" or "delivery" means any method of delivery
9 14 used in conventional commercial practice, including delivery
9 15 in person, by mail, commercial delivery, and electronic
9 16 transmission.

9 17 9. "Directors" means individuals, designated in the
9 18 articles or bylaws or elected by the incorporators, and their
9 19 successors and individuals elected or appointed by any other
9 20 name or title to act as members of the board.

9 21 10. "Distribution" means the payment of a dividend or any
9 22 part of the income or profit of a corporation to its members,
9 23 directors, or officers.
9 24 11. "Domestic corporation" means a corporation.
9 25 12. "Effective date of notice" is defined in section
9 26 504.142.
9 27 13. "Electronic transmission" or "electronically
9 28 transmitted" means any process of communication not directly
9 29 involving the physical transfer of paper that is suitable for
9 30 the retention, retrieval, and reproduction of information by
9 31 the recipient.
9 32 14. "Employee" does not include an officer or director of
9 33 a corporation who is not otherwise employed by the
9 34 corporation.
9 35 15. "Entity" includes a corporation and foreign
10 1 corporation; business corporation and foreign business
10 2 corporation; limited liability company and foreign limited
10 3 liability company; profit and nonprofit unincorporated
10 4 association; corporation sole; business trust, estate,
10 5 partnership, trust, and two or more persons having a joint or
10 6 common economic interest; and state, the United States, and
10 7 foreign government.
10 8 16. "File", "filed", or "filing" means filed in the office
10 9 of the secretary of state.
10 10 17. "Foreign corporation" means a corporation organized
10 11 under laws other than the laws of this state which would be a
10 12 nonprofit corporation if formed under the laws of this state.
10 13 18. "Governmental subdivision" includes an authority,
10 14 county, district, and municipality.
10 15 19. "Includes" denotes a partial definition.
10 16 20. "Individual" includes the estate of an incompetent
10 17 individual.
10 18 21. "Means" denotes a complete definition.
10 19 22. "Member" means a person who on more than one occasion,
10 20 pursuant to the provisions of a corporation's articles or
10 21 bylaws, has a right to vote for the election of a director or
10 22 directors of a corporation, irrespective of how a member is
10 23 defined in the articles or bylaws of the corporation. A
10 24 person is not a member because of any of the following:
10 25 a. The person's rights as a delegate.
10 26 b. The person's rights to designate a director.
10 27 c. The person's rights as a director.
10 28 23. "Membership" refers to the rights and obligations a
10 29 member or members have pursuant to a corporation's articles,
10 30 bylaws, and this chapter.
10 31 24. "Mutual benefit corporation" means a domestic or
10 32 foreign corporation that is required to be a mutual benefit
10 33 corporation pursuant to section 504.1705.
10 34 25. "Notice" is defined in section 504.142.
10 35 26. "Person" includes any individual or entity.
11 1 27. "Principal office" means the office in or out of this
11 2 state so designated in the biennial report filed pursuant to
11 3 section 504.1613 where the principal offices of a domestic or
11 4 foreign corporation are located.
11 5 28. "Proceeding" includes a civil suit and criminal,
11 6 administrative, or investigatory actions.
11 7 29. "Public benefit corporation" means a domestic or
11 8 foreign corporation that is required to be a public benefit
11 9 corporation pursuant to section 504.1705.
11 10 30. "Record date" means the date established under
11 11 subchapter 6 or 7 on which a corporation determines the
11 12 identity of its members for the purposes of this subchapter.
11 13 31. "Religious corporation" means a domestic or foreign
11 14 corporation, that engages in religious activity as one of the
11 15 corporation's principal purposes.
11 16 32. "Secretary" means the corporate officer to whom the
11 17 board of directors has delegated responsibility under section
11 18 504.841, subsection 2, for custody of the minutes of the
11 19 directors' and members' meetings and for authenticating the
11 20 records of the corporation.
11 21 33. "Sign" or "signature" includes a manual, facsimile,
11 22 conformed, or electronic signature.
11 23 34. "State", when referring to a part of the United
11 24 States, includes a state and commonwealth and their agencies
11 25 and governmental subdivisions, and a territory and insular
11 26 possession and their agencies and governmental subdivisions of
11 27 the United States.
11 28 35. "United States" includes a district, authority,
11 29 bureau, commission, department, and any other agency of the
11 30 United States.
11 31 36. "Vote" includes authorization by written ballot and

11 32 written consent.

11 33 37. "Voting power" means the total number of votes
11 34 entitled to be cast for the election of directors at the time
11 35 the determination of voting power is made, excluding a vote
12 1 that is contingent upon the happening of a condition or event
12 2 that has not occurred at the time. When a class is entitled
12 3 to vote as a class for directors, the determination of voting
12 4 power of the class shall be based on the percentage of the
12 5 number of directors the class is entitled to elect out of the
12 6 total number of authorized directors.

12 7 Sec. 15. NEW SECTION. 504.142 NOTICE.

12 8 1. Notice under this chapter must be in writing unless
12 9 oral notice is reasonable under the circumstances. Notice by
12 10 electronic transmission is written notice.

12 11 2. Subject to subsection 1, notice may be communicated in
12 12 person, by mail, or other method of delivery; or by telephone,
12 13 voice mail, or other electronic means. If these forms of
12 14 personal notice are impracticable, notice may be communicated
12 15 by a newspaper of general circulation in the area where
12 16 published or by radio, television, or other form of public
12 17 broadcast communication.

12 18 3. Oral notice is effective when communicated if
12 19 communicated in a comprehensible manner.

12 20 4. Written notice by a domestic or foreign corporation to
12 21 its member, if in a comprehensible form, is effective
12 22 according to one of the following:

12 23 a. Upon deposit in the United States mail, if mailed
12 24 postpaid and correctly addressed to the member's address shown
12 25 in the corporation's current record of members.

12 26 b. When electronically transmitted to the shareholder in a
12 27 manner authorized by the shareholder.

12 28 5. Except as provided in subsection 4, written notice, if
12 29 in a comprehensible form, is effective at the earliest of the
12 30 following:

12 31 a. When received.

12 32 b. Five days after its deposit in the United States mail,
12 33 if mailed correctly addressed and with first-class postage
12 34 affixed.

12 35 c. On the date shown on the return receipt, if sent by
13 1 registered or certified mail, return receipt requested, and
13 2 the receipt is signed by or on behalf of the addressee.

13 3 d. Thirty days after its deposit in the United States
13 4 mail, if mailed correctly addressed and with other than first-
13 5 class, registered, or certified postage affixed.

13 6 6. Written notice is correctly addressed to a member of a
13 7 domestic or foreign corporation if addressed to the member's
13 8 address shown in the corporation's current list of members.

13 9 7. A written notice or report delivered as part of a
13 10 newsletter, magazine, or other publication regularly sent to
13 11 members shall constitute a written notice or report if
13 12 addressed or delivered to the member's address shown in the
13 13 corporation's current list of members, or in the case of
13 14 members who are residents of the same household and who have
13 15 the same address in the corporation's current list of members,
13 16 if addressed or delivered to one of such members, at the
13 17 address appearing on the current list of members.

13 18 8. Written notice is correctly addressed to a domestic or
13 19 foreign corporation authorized to transact business in this
13 20 state, other than in its capacity as a member, if addressed to
13 21 its registered agent or to its secretary at its principal
13 22 office shown in its most recent biennial report or, in the
13 23 case of a foreign corporation that has not yet delivered an
13 24 annual report, in its application for a certificate of
13 25 authority.

13 26 9. If section 504.705, subsection 2, or any other
13 27 provision of this chapter prescribes notice requirements for
13 28 particular circumstances, those requirements govern. If
13 29 articles or bylaws prescribe notice requirements not
13 30 inconsistent with this section or other provisions of this
13 31 chapter, those requirements govern.

13 32 PART 5

13 33 JUDICIAL RELIEF

13 34 Sec. 16. NEW SECTION. 504.151 JUDICIAL RELIEF.

13 35 1. If for any reason it is impractical or impossible for a
14 1 corporation to call or conduct a meeting of its members,
14 2 delegates, or directors, or otherwise obtain their consent, in
14 3 the manner prescribed by its articles, bylaws, or this
14 4 chapter, then upon petition of a director, officer, delegate,
14 5 member, or the attorney general, the district court may order
14 6 that such a meeting be called or that a written ballot or
14 7 other form of obtaining the vote of members, delegates, or

14 8 directors be authorized, in such a manner as the court finds
14 9 fair and equitable under the circumstances.

14 10 2. The court shall, in an order issued pursuant to this
14 11 section, provide for a method of notice reasonably designed to
14 12 give actual notice to all persons who would be entitled to
14 13 notice of a meeting held pursuant to the articles, bylaws, and
14 14 this chapter, whether or not the method results in actual
14 15 notice to all such persons or conforms to the notice
14 16 requirements that would otherwise apply. In a proceeding
14 17 under this section, the court may determine who the members or
14 18 directors are.

14 19 3. An order issued pursuant to this section may dispense
14 20 with any requirement relating to the holding of or voting at
14 21 meetings or obtaining votes, including any requirement as to
14 22 quorums or as to the number or percentage of votes needed for
14 23 approval, that would otherwise be imposed by the articles,
14 24 bylaws, or this chapter.

14 25 4. Whenever practical, an order issued pursuant to this
14 26 section shall limit the subject matter of meetings or other
14 27 forms of consent authorized to items, including amendments to
14 28 the articles or bylaws, the resolution of which will or may
14 29 enable the corporation to continue managing its affairs
14 30 without further resort to this section; provided, however,
14 31 that an order under this section may also authorize the
14 32 obtaining of whatever votes and approvals are necessary for
14 33 the dissolution, merger, or sale of assets.

14 34 5. A meeting or other method of obtaining the vote of
14 35 members, delegates, or directors conducted pursuant to an
15 1 order issued under this section, and which complies with all
15 2 the provisions of such order, is for all purposes a valid
15 3 meeting or vote, as the case may be, and shall have the same
15 4 force and effect as if it complied with every requirement
15 5 imposed by the articles, bylaws, and this chapter.

15 6 SUBCHAPTER II
15 7 ORGANIZATION

15 8 Sec. 17. NEW SECTION. 504.201 INCORPORATORS.

15 9 One or more persons may act as the incorporator or
15 10 incorporators of a corporation by delivering articles of
15 11 incorporation to the secretary of state for filing.

15 12 Sec. 18. NEW SECTION. 504.202 ARTICLES OF INCORPORATION.

15 13 1. The articles of incorporation shall set forth all of
15 14 the following:

15 15 a. A corporate name for the corporation that satisfies the
15 16 requirements of section 504.401.

15 17 b. The address of the corporation's initial registered
15 18 office and the name of its initial registered agent at that
15 19 office.

15 20 c. The name and address of each incorporator.

15 21 d. Whether the corporation will have members. A
15 22 corporation incorporated prior to January 1, 2005, may state
15 23 whether it will have members in either the articles of
15 24 incorporation or in the corporate bylaws.

15 25 e. For corporations incorporated after July 1, 2005,
15 26 provisions not inconsistent with law regarding the
15 27 distribution of assets on dissolution.

15 28 2. The articles of incorporation may set forth any of the
15 29 following:

15 30 a. The purpose for which the corporation is organized,
15 31 which may be, either alone or in combination with other
15 32 purposes, the transaction of any lawful activity.

15 33 b. The names and addresses of the individuals who are to
15 34 serve as the initial directors.

15 35 c. Provisions not inconsistent with law regarding all of
16 1 the following:

16 2 (1) Managing and regulating the affairs of the
16 3 corporation.

16 4 (2) Defining, limiting, and regulating the powers of the
16 5 corporation, its board of directors, and members, or any class
16 6 of members.

16 7 (3) The characteristics, qualifications, rights,
16 8 limitations, and obligations attaching to each or any class of
16 9 members.

16 10 d. A provision eliminating or limiting the liability of a
16 11 director to the corporation or its members for money damages
16 12 for any action taken, or any failure to take any action, as a
16 13 director, except liability for any of the following:

16 14 (1) The amount of a financial benefit received by a
16 15 director to which the director is not entitled.

16 16 (2) An intentional infliction of harm on the corporation
16 17 or its members.

16 18 (3) A violation of section 504.834.

16 19 (4) An intentional violation of criminal law.
16 20 A provision set forth in the articles of incorporation
16 21 pursuant to this paragraph shall not eliminate or limit the
16 22 liability of a director for an act or omission that occurs
16 23 prior to the date when the provision becomes effective. The
16 24 absence of a provision eliminating or limiting the liability
16 25 of a director pursuant to this paragraph shall not affect the
16 26 applicability of section 504.901.

16 27 e. A provision permitting or requiring a corporation to
16 28 indemnify a director for liability, as defined in section
16 29 504.851, subsection 5, to a person for any action taken, or
16 30 any failure to take any action, as a director except liability
16 31 for any of the following:

16 32 (1) Receipt of a financial benefit to which the person is
16 33 not entitled.

16 34 (2) Intentional infliction of harm on the corporation or
16 35 its members.

17 1 (3) A violation of section 504.834.

17 2 (4) Intentional violation of criminal law.

17 3 f. Any provision that under this chapter is required or
17 4 permitted to be set forth in the bylaws.

17 5 3. Each incorporator named in the articles must sign the
17 6 articles.

17 7 4. The articles of incorporation need not set forth any of
17 8 the corporate powers enumerated in this chapter.

17 9 Sec. 19. NEW SECTION. 504.203 INCORPORATION.

17 10 1. Unless a delayed effective date is specified, the
17 11 corporate existence begins when the articles of incorporation
17 12 are filed.

17 13 2. The secretary of state's filing of the articles of
17 14 incorporation is conclusive proof that the incorporators
17 15 satisfied all conditions precedent to incorporation except in
17 16 a proceeding by the state to cancel or revoke the
17 17 incorporation or involuntarily dissolve the corporation.

17 18 Sec. 20. NEW SECTION. 504.204 LIABILITY FOR
17 19 PREINCORPORATION TRANSACTIONS.

17 20 All persons purporting to act as or on behalf of a
17 21 corporation, knowing there was no incorporation under this
17 22 chapter, are jointly and severally liable for all liabilities
17 23 created while so acting.

17 24 Sec. 21. NEW SECTION. 504.205 ORGANIZATION OF
17 25 CORPORATION.

17 26 1. After incorporation:

17 27 a. If initial directors are named in the articles of
17 28 incorporation, the initial directors shall hold an
17 29 organizational meeting, at the call of a majority of the
17 30 directors, to complete the organization of the corporation by
17 31 appointing officers, adopting bylaws, and carrying on any
17 32 other business brought before the meeting.

17 33 b. If initial directors are not named in the articles, the
17 34 incorporator or incorporators shall hold an organizational
17 35 meeting at the call of a majority of the incorporators to do
18 1 one of the following:

18 2 (1) Elect directors and complete the organization of the
18 3 corporation.

18 4 (2) Elect a board of directors who shall complete the
18 5 organization of the corporation.

18 6 2. Action required or permitted by this chapter to be
18 7 taken by incorporators at an organizational meeting may be
18 8 taken without a meeting if the action taken is evidenced by
18 9 one or more written consents describing the action taken and
18 10 signed by each incorporator.

18 11 3. An organizational meeting may be held in or out of this
18 12 state in accordance with section 504.821.

18 13 Sec. 22. NEW SECTION. 504.206 BYLAWS.

18 14 1. The incorporators or board of directors of a
18 15 corporation shall adopt bylaws for the corporation.

18 16 2. The bylaws may contain any provision for regulating and
18 17 managing the affairs of the corporation that is not
18 18 inconsistent with law or the articles of incorporation.

18 19 Sec. 23. NEW SECTION. 504.207 EMERGENCY BYLAWS AND
18 20 POWERS.

18 21 1. Unless the articles provide otherwise the directors of
18 22 a corporation may adopt, amend, or repeal bylaws to be
18 23 effective only in an emergency as described in subsection 4.
18 24 The emergency bylaws, which are subject to amendment or repeal
18 25 by the members, may provide special procedures necessary for
18 26 managing the corporation during the emergency, including all
18 27 of the following:

18 28 a. How to call a meeting of the board.

18 29 b. Quorum requirements for the meeting.

18 30 c. Designation of additional or substitute directors.
18 31 2. All provisions of the regular bylaws consistent with
18 32 the emergency bylaws remain effective during the emergency.
18 33 The emergency bylaws are not effective after the emergency
18 34 ends.
18 35 3. Corporate action taken in good faith in accordance with
19 1 the emergency bylaws does both of the following:
19 2 a. Binds the corporation.
19 3 b. Shall not be used to impose liability on a corporate
19 4 director, officer, employee, or agent.
19 5 4. An emergency exists for purposes of this section if a
19 6 quorum of the corporation's directors cannot readily be
19 7 assembled because of some catastrophic event.

19 8 SUBCHAPTER III

19 9 PURPOSES AND POWERS

19 10 Sec. 24. NEW SECTION. 504.301 PURPOSES.

19 11 1. Every corporation incorporated under this chapter has
19 12 the purpose of engaging in any lawful activity unless a more
19 13 limited purpose is set forth in the articles of incorporation.

19 14 2. A corporation engaging in an activity that is subject
19 15 to regulation under another statute of this state may
19 16 incorporate under this chapter only if incorporation under
19 17 this chapter is not prohibited by the other statute. The
19 18 corporation shall be subject to all limitations of the other
19 19 statute.

19 20 Sec. 25. NEW SECTION. 504.302 GENERAL POWERS.

19 21 Unless its articles of incorporation provide otherwise,
19 22 every corporation has perpetual duration and succession in its
19 23 corporate name and has the same powers as an individual to do
19 24 all things necessary or convenient to carry out its affairs,
19 25 including without limitation all of the following powers:

19 26 1. Sue and be sued, complain, and defend in its corporate
19 27 name.

19 28 2. Have a corporate seal, which may be altered at will,
19 29 and to use it, or a facsimile of it, by impressing, affixing,
19 30 or in any other manner reproducing it.

19 31 3. Make and amend bylaws not inconsistent with its
19 32 articles of incorporation or with the laws of this state, for
19 33 regulating and managing the affairs of the corporation.

19 34 4. Purchase, receive, lease, or otherwise acquire, and
19 35 own, hold, improve, use, and otherwise deal with real or
20 1 personal property, or any legal or equitable interest in
20 2 property, wherever located.

20 3 5. Sell, convey, mortgage, pledge, lease, exchange, and
20 4 otherwise dispose of all or any part of its property.

20 5 6. Purchase, receive, subscribe for, or otherwise acquire,
20 6 own, hold, vote, use, sell, mortgage, lend, pledge, or
20 7 otherwise dispose of, and deal in and with, shares or other
20 8 interests in, or obligations of, any entity.

20 9 7. Make contracts and guarantees, incur liabilities,
20 10 borrow money, issue notes, bonds, and other obligations, and
20 11 secure any of its obligations by mortgage or pledge of any of
20 12 its property, franchises, or income.

20 13 8. Lend money, invest and reinvest its funds, and receive
20 14 and hold real and personal property as security for repayment,
20 15 except as limited by section 504.833.

20 16 9. Be a promoter, partner, member, associate, or manager
20 17 of any partnership, joint venture, trust, or other entity.

20 18 10. Conduct its activities, locate offices, and exercise
20 19 the powers granted by this chapter in or out of this state.

20 20 11. Elect or appoint directors, officers, employees, and
20 21 agents of the corporation, define their duties, and fix their
20 22 compensation.

20 23 12. Pay pensions and establish pension plans, pension
20 24 trusts, and other benefit and incentive plans for any or all
20 25 of its current or former directors, officers, employees, and
20 26 agents.

20 27 13. Make donations not inconsistent with law for the
20 28 public welfare or for charitable, religious, scientific, or
20 29 educational purposes and for other purposes that further the
20 30 corporate interest.

20 31 14. Impose dues, assessments, and admission and transfer
20 32 fees upon its members.

20 33 15. Establish conditions for admission of members, admit
20 34 members, and issue memberships.

20 35 16. Carry on a business.

21 1 17. Do all things necessary or convenient, not
21 2 inconsistent with law, to further the activities and affairs
21 3 of the corporation.

21 4 Sec. 26. NEW SECTION. 504.303 EMERGENCY POWERS.

21 5 1. In anticipation of or during an emergency as described

21 6 in subsection 4, the board of directors of a corporation may
21 7 do both of the following:
21 8 a. Modify lines of succession to accommodate the
21 9 incapacity of any director, officer, employee, or agent.
21 10 b. Relocate the principal office, designate alternative
21 11 principal offices or regional offices, or authorize an officer
21 12 to do so.
21 13 2. During an emergency described in subsection 4, unless
21 14 emergency bylaws provide otherwise, all of the following shall
21 15 apply:
21 16 a. Notice of a meeting of the board of directors need be
21 17 given only to those directors whom it is practicable to reach
21 18 and such notice may be given in any practicable manner,
21 19 including by publication and radio.
21 20 b. One or more officers of the corporation present at a
21 21 meeting of the board of directors may be deemed to be
21 22 directors for the meeting, in order of rank and within the
21 23 same rank in order of seniority, as necessary to achieve a
21 24 quorum.
21 25 3. Corporate action taken in good faith during an
21 26 emergency under this section to further the ordinary affairs
21 27 of the corporation does both of the following:
21 28 a. Binds the corporation.
21 29 b. Shall not be used to impose liability on a corporate
21 30 director, officer, employee, or agent.
21 31 4. An emergency exists for purposes of this section if a
21 32 quorum of the corporation's directors cannot readily be
21 33 assembled because of some catastrophic event.

21 34 Sec. 27. NEW SECTION. 504.304 ULTRA VIRES.

21 35 1. Except as provided in subsection 2, the validity of
22 1 corporate action may not be challenged on the ground that the
22 2 corporation lacks or lacked power to act.
22 3 2. A corporation's power to act may be challenged in a
22 4 proceeding against the corporation to enjoin an act when a
22 5 third party has not acquired rights. The proceeding may be
22 6 brought by the attorney general, a director, or by a member or
22 7 members in a derivative proceeding.
22 8 3. A corporation's power to act may be challenged in a
22 9 proceeding against an incumbent or former director, officer,
22 10 employee, or agent of the corporation. The proceeding may be
22 11 brought by a director, the corporation, directly,
22 12 derivatively, or through a receiver, a trustee or other legal
22 13 representative, or in the case of a public benefit
22 14 corporation, by the attorney general.

22 15 SUBCHAPTER IV

22 16 NAMES

22 17 Sec. 28. NEW SECTION. 504.401 CORPORATE NAME.

22 18 1. A corporate name shall not contain language stating or
22 19 implying that the corporation is organized for a purpose other
22 20 than that permitted by section 504.301 and its articles of
22 21 incorporation.

22 22 2. Except as authorized by subsections 3 and 4, a
22 23 corporate name must be distinguishable upon the records of the
22 24 secretary of state from:

22 25 a. The corporate name of any other nonprofit or business
22 26 corporation incorporated or authorized to do business in this
22 27 state.

22 28 b. A corporate name reserved or registered under section
22 29 490.402, 490.403, 504.402, or 504.403.

22 30 c. The fictitious name of a foreign business or nonprofit
22 31 corporation authorized to transact business in this state
22 32 because its real name is unavailable.

22 33 3. A corporation may apply to the secretary of state for
22 34 authorization to use a name that is not distinguishable upon
22 35 the secretary of state's records from one or more of the names
23 1 described in subsection 2. The secretary of state shall
23 2 authorize use of the name applied for if either of the
23 3 following applies:

23 4 a. The other corporation consents to the use of the name
23 5 in writing and submits an undertaking in a form satisfactory
23 6 to the secretary of state to change its name to a name that is
23 7 distinguishable upon the records of the secretary of state
23 8 from the name of the applying corporation.

23 9 b. The applicant delivers to the secretary of state a
23 10 certified copy of a final judgment from a court of competent
23 11 jurisdiction establishing the applicant's right to use the
23 12 name applied for in this state.

23 13 4. A corporation may use the name, including the
23 14 fictitious name, of another domestic or foreign business or
23 15 nonprofit corporation that is being used in this state if the
23 16 other corporation is incorporated or authorized to do business

23 17 in this state and the proposed user corporation submits
23 18 documentation to the satisfaction of the secretary of state
23 19 establishing any of the following conditions:
23 20 a. The user corporation has merged with the other
23 21 corporation.
23 22 b. The user corporation has been formed by reorganization
23 23 of the other corporation.
23 24 c. The user corporation has acquired all or substantially
23 25 all of the assets, including the corporate name, of the other
23 26 corporation.
23 27 5. This subchapter does not control the use of fictitious
23 28 names; however, if a corporation or a foreign corporation uses
23 29 a fictitious name in this state it shall deliver to the
23 30 secretary of state for filing a copy of the resolution of its
23 31 board of directors, certified by its secretary, adopting the
23 32 fictitious name.

23 33 Sec. 29. NEW SECTION. 504.402 RESERVED NAME.

23 34 1. A person may reserve the exclusive use of a corporate
23 35 name, including a fictitious name for a foreign corporation
24 1 whose corporate name is not available by delivering an
24 2 application to the secretary of state for filing. Upon
24 3 finding that the corporate name applied for is available, the
24 4 secretary of state shall reserve the name for the applicant's
24 5 exclusive use for a nonrenewable one hundred twenty-day
24 6 period.

24 7 2. The owner of a reserved corporate name may transfer the
24 8 reservation to another person by delivering to the secretary
24 9 of state a signed notice of the transfer that states the name
24 10 and address of the transferee.

24 11 Sec. 30. NEW SECTION. 504.403 REGISTERED NAME.

24 12 1. A foreign corporation may register its corporate name,
24 13 or its corporate name with any change required by section
24 14 504.1506, if the name is distinguishable upon the records of
24 15 the secretary of state from both of the following:

24 16 a. The corporate name of a nonprofit or business
24 17 corporation incorporated or authorized to do business in this
24 18 state.

24 19 b. A corporate name reserved under section 490.402,
24 20 490.403, or 504.402, or registered under this section.

24 21 2. A foreign corporation shall register its corporate
24 22 name, or its corporate name with any change required by
24 23 section 504.1506, by delivering to the secretary of state an
24 24 application that does both of the following:

24 25 a. Sets forth its corporate name, or its corporate name
24 26 with any change required by section 504.1506, the state or
24 27 country and date of its incorporation, and a brief description
24 28 of the nature of the activities in which it is engaged.

24 29 b. Is accompanied by a certificate of existence, or a
24 30 document of similar import, from the state or country of
24 31 incorporation.

24 32 3. The name is registered for the applicant's exclusive
24 33 use upon the effective date of the application.

24 34 4. A foreign corporation whose registration is effective
24 35 may renew it for successive years by delivering to the
25 1 secretary of state for filing a renewal application which
25 2 complies with the requirements of subsection 2, between
25 3 October 1 and December 31 of the preceding year. The renewal
25 4 application renews the registration for the following calendar
25 5 year.

25 6 5. A foreign corporation whose registration is effective
25 7 may thereafter qualify as a foreign corporation under that
25 8 name or consent in writing to the use of that name by a
25 9 corporation thereafter incorporated under this chapter or by
25 10 another foreign corporation thereafter authorized to transact
25 11 business in this state. The registration terminates when the
25 12 domestic corporation is incorporated or the foreign
25 13 corporation qualifies or consents to the qualification of
25 14 another foreign corporation under the registered name.

25 15 SUBCHAPTER V
25 16 OFFICE AND AGENT

25 17 Sec. 31. NEW SECTION. 504.501 REGISTERED OFFICE AND
25 18 REGISTERED AGENT.

25 19 A corporation shall continuously maintain both of the
25 20 following in this state:

25 21 1. A registered office with the same address as that of
25 22 the registered agent.

25 23 2. A registered agent, who may be any of the following:

25 24 a. An individual who resides in this state and whose
25 25 business office is identical with the registered office.

25 26 b. A domestic business or nonprofit corporation whose
25 27 business office is identical to the registered office.

25 28 c. A foreign business or nonprofit corporation authorized
25 29 to transact business in this state whose business office is
25 30 identical to the registered office.

25 31 Sec. 32. NEW SECTION. 504.502 CHANGE OF REGISTERED
25 32 OFFICE OR REGISTERED AGENT.

25 33 1. A corporation may change its registered office or
25 34 registered agent by delivering to the secretary of state for
25 35 filing a statement of change that sets forth all of the
26 1 following:

26 2 a. The name of the corporation.

26 3 b. If the current registered office is to be changed, the
26 4 address of the new registered office.

26 5 c. If the current registered agent is to be changed, the
26 6 name of the new registered agent and the new agent's written
26 7 consent, either on the statement or attached to it, to the
26 8 change.

26 9 d. That after the change or changes are made, the
26 10 addresses of its registered office and the office of its
26 11 registered agent will be identical.

26 12 2. If the address of a registered agent's business office
26 13 is changed, the registered agent may change the address of the
26 14 registered office of any corporation for which the registered
26 15 agent is the registered agent by notifying the corporation in
26 16 writing of the change and by signing, either manually or in
26 17 facsimile, and delivering to the secretary of state for
26 18 filing, a statement that complies with the requirements of
26 19 subsection 1 and recites that the corporation has been
26 20 notified of the change.

26 21 3. If a registered agent changes the registered agent's
26 22 business address to another place, the registered agent may
26 23 change the address of the registered office of any corporation
26 24 for which the registered agent is the registered agent by
26 25 filing a statement as required in subsection 2 for each
26 26 corporation, or by filing a single statement for all
26 27 corporations named in the notice, except that it need be
26 28 signed, either manually or in facsimile, only once by the
26 29 registered agent and must recite that a copy of the statement
26 30 has been mailed to each corporation named in the notice.

26 31 Sec. 33. NEW SECTION. 504.503 RESIGNATION OF REGISTERED
26 32 AGENT.

26 33 1. A registered agent may resign as registered agent by
26 34 signing and delivering to the secretary of state for filing a
26 35 signed original statement of resignation. The statement may
27 1 include a statement that the registered office is also
27 2 discontinued.

27 3 The registered agent shall send a copy of the statement of
27 4 resignation by certified mail to the corporation at its
27 5 principal office and to the registered office, if not
27 6 discontinued. The registered agent shall certify to the
27 7 secretary of state that copies have been sent to the
27 8 corporation, including the date the copies were sent.

27 9 2. The agency appointment is terminated, and the
27 10 registered office discontinued if so provided, on the date the
27 11 statement was filed.

27 12 Sec. 34. NEW SECTION. 504.504 SERVICE ON CORPORATION.

27 13 1. A corporation's registered agent is the corporation's
27 14 agent for service of process, notice, or demand required or
27 15 permitted by law to be served on the corporation.

27 16 2. If a corporation has no registered agent, or the agent
27 17 cannot with reasonable diligence be served, the corporation
27 18 may be served by registered or certified mail, return receipt
27 19 requested, addressed to the secretary of the corporation at
27 20 its principal office shown in the most recent biennial report
27 21 filed pursuant to section 504.1613. Service is perfected
27 22 under this subsection on the earliest of any of the following:

27 23 a. The date the corporation receives the mail.

27 24 b. The date shown on the return receipt, if signed on
27 25 behalf of the corporation.

27 26 c. Five days after its deposit in the United States mail,
27 27 if mailed and correctly addressed with first class postage
27 28 affixed.

27 29 3. This section does not prescribe the only means, or
27 30 necessarily the required means, of serving a corporation. A
27 31 corporation may also be served in any other manner permitted
27 32 by law.

27 33 SUBCHAPTER VI
27 34 MEMBERS AND MEMBERSHIPS
27 35 PART 1

28 1 ADMISSION OF MEMBERS

28 2 Sec. 35. NEW SECTION. 504.601 ADMISSION.

28 3 1. The articles or bylaws may establish criteria or

28 4 procedures for admission of members.

28 5 2. A person shall not be admitted as a member without the
28 6 person's consent or affirmative action evidencing consent.

28 7 Sec. 36. NEW SECTION. 504.602 CONSIDERATION.

28 8 Except as provided in its articles or bylaws, a corporation
28 9 may admit members for no consideration or for such
28 10 consideration as is determined by the board.

28 11 Sec. 37. NEW SECTION. 504.603 NO REQUIREMENT OF MEMBERS.

28 12 A corporation is not required to have members.

28 13 PART 2

28 14 TYPES OF MEMBERSHIPS == MEMBERS' RIGHTS AND OBLIGATIONS

28 15 Sec. 38. NEW SECTION. 504.611 DIFFERENCES IN RIGHTS AND
28 16 OBLIGATIONS OF MEMBERS.

28 17 All members shall have the same rights and obligations with
28 18 respect to voting, dissolution, redemption, and transfer,
28 19 unless the articles or bylaws establish classes of membership
28 20 with different rights or obligations. All members shall have
28 21 the same rights and obligations with respect to any other
28 22 matters, except as set forth in or authorized by the articles
28 23 or bylaws. A person that does not meet the qualifications for
28 24 a member under section 504.141, subsection 22, and is
28 25 identified as a member in the articles or bylaws of the
28 26 corporation shall have only those rights set forth for such a
28 27 member in the articles or bylaws of the corporation.

28 28 Sec. 39. NEW SECTION. 504.612 TRANSFERS.

28 29 1. Except as set forth in or authorized by the articles or
28 30 bylaws, a member of a mutual benefit corporation shall not
28 31 transfer a membership or any right arising therefrom.

28 32 2. A member of a public benefit or religious corporation
28 33 shall not transfer a membership or any right arising
28 34 therefrom.

28 35 3. Where transfer rights have been provided, a restriction
29 1 on them shall not be binding with respect to a member holding
29 2 a membership issued prior to the adoption of the restriction
29 3 unless the restriction is approved by the members and the
29 4 affected member.

29 5 Sec. 40. NEW SECTION. 504.613 MEMBER'S LIABILITY TO
29 6 THIRD PARTIES.

29 7 A member of a corporation is not, as such, personally
29 8 liable for the acts, debts, liabilities, or obligations of the
29 9 corporation.

29 10 Sec. 41. NEW SECTION. 504.614 MEMBER'S LIABILITY FOR
29 11 DUES, ASSESSMENTS, AND FEES.

29 12 A member may become liable to the corporation for dues,
29 13 assessments, or fees. However, an article or bylaw provision
29 14 or a resolution adopted by the board authorizing or imposing
29 15 dues, assessments, or fees does not, of itself, create
29 16 liability.

29 17 Sec. 42. NEW SECTION. 504.615 CREDITOR'S ACTION AGAINST
29 18 MEMBER.

29 19 1. A proceeding shall not be brought by a creditor to
29 20 reach the liability, if any, of a member to the corporation
29 21 unless final judgment has been rendered in favor of the
29 22 creditor against the corporation and execution has been
29 23 returned unsatisfied in whole or in part or unless such
29 24 proceeding would be useless.

29 25 2. All creditors of the corporation, with or without
29 26 reducing their claims to judgment, may intervene in any
29 27 creditor's proceeding brought under subsection 1 to reach and
29 28 apply unpaid amounts due the corporation. Any or all members
29 29 who owe amounts to the corporation may be joined in such
29 30 proceeding.

29 31 PART 3

29 32 RESIGNATION AND TERMINATION

29 33 Sec. 43. NEW SECTION. 504.621 RESIGNATION.

29 34 1. A member may resign at any time.

29 35 2. The resignation of a member does not relieve the member
30 1 from any obligations the member may have to the corporation as
30 2 a result of obligations incurred or commitments made prior to
30 3 resignation.

30 4 Sec. 44. NEW SECTION. 504.622 TERMINATION, EXPULSION, OR
30 5 SUSPENSION.

30 6 1. A member of a public benefit or mutual benefit
30 7 corporation shall not be expelled or suspended, and a
30 8 membership or memberships in such a corporation shall not be
30 9 terminated or suspended except pursuant to a procedure which
30 10 is fair and reasonable and is carried out in good faith.

30 11 2. A procedure is fair and reasonable when either of the
30 12 following occurs:

30 13 a. The articles or bylaws set forth a procedure which
30 14 provides both of the following:

30 15 (1) Not less than fifteen days' prior written notice of
30 16 the expulsion, suspension, or termination and the reasons
30 17 therefore.

30 18 (2) An opportunity for the member to be heard, orally or
30 19 in writing, not less than five days before the effective date
30 20 of the expulsion, suspension, or termination by a person or
30 21 persons authorized to decide that the proposed expulsion,
30 22 termination, or suspension not take place.

30 23 b. The procedure requires consideration of all relevant
30 24 facts and circumstances surrounding the expulsion, suspension,
30 25 or termination by a person or persons authorized to make a
30 26 decision regarding the proposed expulsion, termination, or
30 27 suspension.

30 28 3. Any written notice given by mail pursuant to this
30 29 section must be given by first class or certified mail sent to
30 30 the last address of the member shown on the corporation's
30 31 records.

30 32 4. A proceeding challenging an expulsion, suspension, or
30 33 termination, including a proceeding alleging defective notice,
30 34 must be commenced within one year after the effective date of
30 35 the expulsion, suspension, or termination.

31 1 5. A member who has been expelled or suspended may be
31 2 liable to the corporation for dues, assessments, or fees as a
31 3 result of obligations incurred or commitments made prior to
31 4 expulsion or suspension.

31 5 Sec. 45. NEW SECTION. 504.623 PURCHASE OF MEMBERSHIPS.

31 6 1. A public benefit or religious corporation shall not
31 7 purchase any of its memberships or any right arising
31 8 therefrom.

31 9 2. A mutual benefit corporation may purchase the
31 10 membership of a member who resigns or whose membership is
31 11 terminated for the amount and pursuant to the conditions set
31 12 forth in or authorized by its articles or bylaws. A payment
31 13 shall not be made in violation of subchapter 13.

31 14 PART 4

31 15 DERIVATIVE PROCEEDINGS

31 16 Sec. 46. NEW SECTION. 504.631 DERIVATIVE PROCEEDINGS ==
31 17 DEFINITION.

31 18 In this part, unless the context otherwise requires,
31 19 "derivative proceeding" means a civil suit in the right of a
31 20 domestic corporation or, to the extent provided in section
31 21 504.638, in the right of a foreign corporation.

31 22 Sec. 47. NEW SECTION. 504.632 STANDING.

31 23 A derivative proceeding may be brought by any of the
31 24 following persons:

31 25 1. A member or members of the corporation representing
31 26 five percent or more of the voting power of the corporation or
31 27 by fifty members, whichever is less.

31 28 2. A director of the corporation.

31 29 Sec. 48. NEW SECTION. 504.633 DEMAND.

31 30 A derivative proceeding shall not be commenced until both
31 31 of the following have occurred:

31 32 1. A written demand has been made upon the corporation to
31 33 take suitable action.

31 34 2. Ninety days have expired from the date the demand was
31 35 made, unless the member or director has earlier been notified
32 1 that the demand has been rejected by the corporation or unless
32 2 irreparable injury to the corporation would result by waiting
32 3 for the expiration of the ninety-day period.

32 4 Sec. 49. NEW SECTION. 504.634 STAY OF PROCEEDINGS.

32 5 If a corporation commences an inquiry into the allegations
32 6 made in a demand or complaint, the court may stay any
32 7 derivative proceeding for a period of time as the court deems
32 8 appropriate.

32 9 Sec. 50. NEW SECTION. 504.635 DISMISSAL.

32 10 1. A derivative proceeding shall be dismissed by the court
32 11 on motion by the corporation if one of the groups specified in
32 12 subsection 2 or 6 has determined in good faith after
32 13 conducting a reasonable inquiry upon which its conclusions are
32 14 based that the maintenance of the derivative proceeding is not
32 15 in the best interests of the corporation. A corporation
32 16 moving to dismiss on this basis shall submit in support of the
32 17 motion a short and concise statement of the reasons for its
32 18 determination.

32 19 2. Unless a panel is appointed pursuant to subsection 6,
32 20 the determination in subsection 1 shall be made by one of the
32 21 following:

32 22 a. A majority vote of independent directors present at a
32 23 meeting of the board of directors if the independent directors
32 24 constitute a quorum.

32 25 b. A majority vote of a committee consisting of two or

32 26 more independent directors appointed by majority vote of
32 27 independent directors present at a meeting of the board of
32 28 directors, whether or not such independent directors
32 29 constitute a quorum.

32 30 3. None of the following shall by itself cause a director
32 31 to be considered not independent for purposes of this section:

32 32 a. The nomination or election of the director by persons
32 33 who are defendants in the derivative proceeding or against
32 34 whom action is demanded.

32 35 b. The naming of the director as a defendant in the
33 1 derivative proceeding or as a person against whom action is
33 2 demanded.

33 3 c. The approval by the director of the act being
33 4 challenged in the derivative proceeding or demand if the act
33 5 resulted in no personal benefit to the director.

33 6 4. If a derivative proceeding is commenced after a
33 7 determination has been made rejecting a demand by a member or
33 8 director, the complaint shall allege with particularity facts
33 9 establishing one of the following:

33 10 a. That a majority of the board of directors did not
33 11 consist of independent directors at the time the determination
33 12 was made.

33 13 b. That the requirements of subsection 1 have not been
33 14 met.

33 15 All discovery and other proceedings shall be stayed during
33 16 the pendency of any motion to dismiss unless the court finds
33 17 upon the motion of any party that particularized discovery is
33 18 necessary to preserve evidence or prevent undue prejudice to
33 19 that party.

33 20 5. If a majority of the board of directors does not
33 21 consist of independent directors at the time the determination
33 22 is made, the corporation shall have the burden of proving that
33 23 the requirements of subsection 1 have been met. If a majority
33 24 of the board of directors consists of independent directors at
33 25 the time the determination is made, the plaintiff shall have
33 26 the burden of proving that the requirements of subsection 1
33 27 have not been met.

33 28 6. The court may appoint a panel of one or more
33 29 independent persons upon motion by the corporation to make a
33 30 determination whether the maintenance of the derivative
33 31 proceeding is in the best interests of the corporation. In
33 32 such case, the plaintiff shall have the burden of proving that
33 33 the requirements of subsection 1 have not been met.

33 34 Sec. 51. NEW SECTION. 504.636 DISCONTINUANCE OR
33 35 SETTLEMENT.

34 1 A derivative proceeding shall not be discontinued or
34 2 settled without the court's approval. If the court determines
34 3 that a proposed discontinuance or settlement will
34 4 substantially affect the interests of a corporation's member
34 5 or class of members or director, the court shall direct that
34 6 notice be given to the members or director affected.

34 7 Sec. 52. NEW SECTION. 504.637 PAYMENT OF EXPENSES.

34 8 On termination of a derivative proceeding, the court may do
34 9 either of the following:

34 10 1. Order the corporation to pay the plaintiff's reasonable
34 11 expenses, including attorney fees incurred in the proceeding,
34 12 if it finds that the proceeding has resulted in a substantial
34 13 benefit to the corporation.

34 14 2. Order the plaintiff to pay any defendant's reasonable
34 15 expenses, including attorney fees incurred in defending the
34 16 proceeding, if it finds that the proceeding was commenced or
34 17 maintained without reasonable cause or for an improper
34 18 purpose.

34 19 Sec. 53. NEW SECTION. 504.638 APPLICABILITY TO FOREIGN
34 20 CORPORATIONS.

34 21 In any derivative proceeding in the right of a foreign
34 22 corporation, the matters covered by this part shall be
34 23 governed by the laws of the jurisdiction of incorporation of
34 24 the foreign corporation except that sections 504.634, 504.636,
34 25 and 504.637 shall apply.

34 26 PART 5
34 27 DELEGATES

34 28 Sec. 54. NEW SECTION. 504.641 DELEGATES.

34 29 1. A corporation may provide in its articles or bylaws for
34 30 delegates having some or all of the authority of members.

34 31 2. The articles or bylaws may set forth provisions
34 32 relating to all of the following:

34 33 a. The characteristics, qualifications, rights,
34 34 limitations, and obligations of delegates including their
34 35 selection and removal.

35 1 b. Calling, noticing, holding, and conducting meetings of

35 2 delegates.
35 3 c. Carrying on corporate activities during and between
35 4 meetings of delegates.

35 5 SUBCHAPTER VII
35 6 MEMBERS' MEETINGS AND VOTING
35 7 PART 1

35 8 MEETINGS AND ACTION WITHOUT MEETINGS
35 9 Sec. 55. NEW SECTION. 504.701 ANNUAL AND REGULAR
35 10 MEETINGS.

35 11 1. A corporation with members shall hold a membership
35 12 meeting annually at a time stated in or fixed in accordance
35 13 with the bylaws.

35 14 2. A corporation with members may hold regular membership
35 15 meetings at the times stated in or fixed in accordance with
35 16 the bylaws.

35 17 3. Annual or regular membership meetings may be held in or
35 18 out of this state at the place stated in or fixed in
35 19 accordance with the bylaws. If a place is not stated in or
35 20 fixed in accordance with the bylaws, annual and regular
35 21 meetings shall be held at the corporation's principal office.

35 22 4. At the annual meeting all of the following shall occur:

35 23 a. The president and chief financial officer shall report
35 24 on the activities and financial condition of the corporation.

35 25 b. The members shall consider and act upon such other
35 26 matters as may be raised consistent with the notice
35 27 requirements of sections 504.705 and 504.713, subsection 4.

35 28 5. At regular meetings, the members shall consider and act
35 29 upon such matters as may be raised consistent with the notice
35 30 requirements of sections 504.705 and 504.713, subsection 4.

35 31 6. The failure to hold an annual or regular meeting at a
35 32 time stated in or fixed in accordance with a corporation's
35 33 bylaws does not affect the validity of any corporate action.

35 34 Sec. 56. NEW SECTION. 504.702 SPECIAL MEETING.

35 35 1. A corporation with members shall hold a special meeting
36 1 of members when either of the following occurs:

36 2 a. At the call of its board or the person or persons
36 3 authorized to do so by the corporation's articles or bylaws.

36 4 b. Except as provided in the articles or bylaws of a
36 5 religious corporation, if the holders of at least five percent
36 6 of the voting power of any corporation sign, date, and deliver
36 7 to any corporate officer one or more written demands for the
36 8 meeting describing the purpose for which it is to be held.

36 9 Unless otherwise provided in the articles of incorporation, a
36 10 written demand for a special meeting may be revoked by a
36 11 writing to that effect received by the corporation prior to
36 12 the receipt by the corporation of demands sufficient in number
36 13 to require the holding of a special meeting.

36 14 2. The close of business on the thirtieth day before
36 15 delivery of the demand for a special meeting to any corporate
36 16 officer is the record date for the purpose of determining
36 17 whether the five percent requirement of subsection 1,
36 18 paragraph "b", has been met.

36 19 3. If a notice for a special meeting demanded under
36 20 subsection 1, paragraph "b", is not given pursuant to section
36 21 504.705 within thirty days after the date the written demand
36 22 or demands are delivered to a corporate officer, regardless of
36 23 the requirements of subsection 4, a person signing the demand
36 24 may set the time and place of the meeting and give notice
36 25 pursuant to section 504.705.

36 26 4. Special meetings of members may be held in or out of
36 27 this state at a place stated in or fixed in accordance with
36 28 the bylaws. If a place is not stated or fixed in accordance
36 29 with the bylaws, special meetings shall be held at the
36 30 corporation's principal office.

36 31 5. Only those matters that are within the purpose
36 32 described in the meeting notice required by section 504.705
36 33 may be considered at a special meeting of members.

36 34 Sec. 57. NEW SECTION. 504.703 COURT-ORDERED MEETING.

36 35 1. The district court of the county where a corporation's
37 1 principal office is located or, if none is located in this
37 2 state, where its registered office is located, may summarily
37 3 order a meeting to be held when any of the following occurs:

37 4 a. On application of any member or other person entitled
37 5 to participate in an annual or regular meeting of the
37 6 corporation, if an annual meeting was not held within the
37 7 earlier of six months after the end of the corporation's
37 8 fiscal year or fifteen months after its last annual meeting.

37 9 b. On application of any member or other person entitled
37 10 to participate in a regular meeting of the corporation, if a
37 11 regular meeting was not held within forty days after the date
37 12 it was required to be held.

37 13 c. On application of a member who signed a demand for a
37 14 special meeting valid under section 504.702, or a person
37 15 entitled to call a special meeting, if any of the following
37 16 applies:

37 17 (1) The notice of the special meeting was not given within
37 18 thirty days after the date the demand was delivered to a
37 19 corporate officer.

37 20 (2) The special meeting was not held in accordance with
37 21 the notice.

37 22 2. The court may fix the time and place of the meeting,
37 23 specify a record date for determining members entitled to
37 24 notice of and to vote at the meeting, prescribe the form and
37 25 content of the meeting notice, fix the quorum required for
37 26 specific matters to be considered at the meeting or direct
37 27 that the votes represented at the meeting constitute a quorum
37 28 for action on those matters, and enter other orders necessary
37 29 to accomplish the purpose of the meeting.

37 30 3. If the court orders a meeting, it may also order the
37 31 corporation to pay the member's costs, including reasonable
37 32 attorney fees, incurred to obtain the order.

37 33 Sec. 58. NEW SECTION. 504.704 ACTION BY WRITTEN CONSENT.

37 34 1. Unless limited or prohibited by the articles or bylaws
37 35 of the corporation, action required or permitted by this
38 1 subchapter to be approved by the members of a corporation may
38 2 be approved without a meeting of members if the action is
38 3 approved by members holding at least eighty percent of the
38 4 voting power. The action must be evidenced by one or more
38 5 written consents describing the action taken, signed by those
38 6 members representing at least eighty percent of the voting
38 7 power, and delivered to the corporation for inclusion in the
38 8 minutes or filing with the corporate records. A written
38 9 consent may be revoked by a writing to that effect received by
38 10 the corporation prior to the receipt by the corporation of
38 11 unrevoked written consents sufficient in number to take
38 12 corporation action.

38 13 2. If not otherwise determined under section 504.703 or
38 14 504.707, the record date for determining members entitled to
38 15 take action without a meeting is the date the first member
38 16 signs the consent under subsection 1.

38 17 3. A consent signed under this section has the effect of a
38 18 meeting vote and may be described as such in any document
38 19 filed with the secretary of state.

38 20 4. Written notice of member approval pursuant to this
38 21 section shall be given to all members who have not signed the
38 22 written consent. If written notice is required, member
38 23 approval pursuant to this section shall be effective ten days
38 24 after such written notice is given.

38 25 Sec. 59. NEW SECTION. 504.705 NOTICE OF MEETING.

38 26 1. A corporation shall give notice consistent with its
38 27 bylaws of meetings of members in a fair and reasonable manner.

38 28 2. Any notice which conforms to the requirements of
38 29 subsection 3 is fair and reasonable, but other means of giving
38 30 notice may also be fair and reasonable when all the
38 31 circumstances are considered. However, notice of matters
38 32 referred to in subsection 3, paragraph "b", must be given as
38 33 provided in subsection 3.

38 34 3. Notice is fair and reasonable if all of the following
38 35 occur:

39 1 a. The corporation notifies its members of the place,
39 2 date, and time of each annual, regular, and special meeting of
39 3 members not more than sixty days and not less than ten days,
39 4 or if notice is mailed by other than first class or registered
39 5 mail, not less than thirty days, before the date of the
39 6 meeting.

39 7 b. The notice of an annual or regular meeting includes a
39 8 description of any matter or matters which must be considered
39 9 for approval by the members under sections 504.833, 504.857,
39 10 504.1003, 504.1022, 504.1104, 504.1202, 504.1401, and
39 11 504.1402.

39 12 c. The notice of a special meeting includes a description
39 13 of the purpose for which the meeting is called.

39 14 4. Unless the bylaws require otherwise, if an annual,
39 15 regular, or special meeting of members is adjourned to a
39 16 different date, time, or place, notice need not be given of
39 17 the new date, time, or place, if the new date, time, or place
39 18 is announced at the meeting before adjournment. If a new
39 19 record date for the adjourned meeting is or must be fixed
39 20 under section 504.707, however, notice of the adjourned
39 21 meeting must be given under this section to the members of
39 22 record as of the new record date.

39 23 5. When giving notice of an annual, regular, or special

39 24 meeting of members, a corporation shall give notice of a
39 25 matter a member intends to raise at the meeting if requested
39 26 in writing to do so by a person entitled to call a special
39 27 meeting and if the request is received by the secretary or
39 28 president of the corporation at least ten days before the
39 29 corporation gives notice of the meeting.

39 30 Sec. 60. NEW SECTION. 504.706 WAIVER OF NOTICE.

39 31 1. A member may waive any notice required by this
39 32 subchapter, the articles, or bylaws before or after the date
39 33 and time stated in the notice. The waiver must be in writing,
39 34 be signed by the member entitled to the notice, and be
39 35 delivered to the corporation for inclusion in the minutes or
40 1 filing with the corporate records.

40 2 2. A member's attendance at a meeting does all of the
40 3 following:

40 4 a. Waives objection to lack of notice or defective notice
40 5 of the meeting, unless the member at the beginning of the
40 6 meeting objects to holding the meeting or transacting business
40 7 at the meeting.

40 8 b. Waives objection to consideration of a particular
40 9 matter at the meeting that is not within the purpose described
40 10 in the meeting notice, unless the member objects to
40 11 considering the matter when it is presented.

40 12 Sec. 61. NEW SECTION. 504.707 RECORD DATE == DETERMINING
40 13 MEMBERS ENTITLED TO NOTICE AND VOTE.

40 14 1. The bylaws of a corporation may fix or provide the
40 15 manner of fixing a date as the record date for determining the
40 16 members entitled to notice of a members' meeting. If the
40 17 bylaws do not fix or provide for fixing such a record date,
40 18 the board may fix a future date as such a record date. If a
40 19 record date is not fixed, members at the close of business on
40 20 the business day preceding the day on which notice is given,
40 21 or if notice is waived, at the close of business on the
40 22 business day preceding the day on which the meeting is held
40 23 are entitled to notice of the meeting.

40 24 2. The bylaws of a corporation may fix or provide the
40 25 manner of fixing a date as the record date for determining the
40 26 members entitled to vote at a members' meeting. If the bylaws
40 27 do not fix or provide for fixing such a record date, the board
40 28 may fix a future date as such a record date. If a record date
40 29 is not fixed, members on the date of the meeting who are
40 30 otherwise eligible to vote are entitled to vote at the
40 31 meeting.

40 32 3. The bylaws may fix or provide the manner for
40 33 determining a date as the record date for the purpose of
40 34 determining the members entitled to exercise any rights in
40 35 respect of any other lawful action. If the bylaws do not fix
41 1 or provide for fixing such a record date, the board may fix in
41 2 advance such a record date. If a record date is not fixed,
41 3 members at the close of business on the day on which the board
41 4 adopts the resolution relating thereto, or the sixtieth day
41 5 prior to the date of such other action, whichever is later,
41 6 are entitled to exercise such rights.

41 7 4. A record date fixed under this section shall not be
41 8 more than seventy days before the meeting or action requiring
41 9 a determination of members occurs.

41 10 5. A determination of members entitled to notice of or to
41 11 vote at a membership meeting is effective for any adjournment
41 12 of the meeting unless the board fixes a new date for
41 13 determining the right to notice or the right to vote, which it
41 14 must do if the meeting is adjourned to a date more than
41 15 seventy days after the record date for determining members
41 16 entitled to notice of the original meeting.

41 17 6. If a court orders a meeting adjourned to a date more
41 18 than one hundred twenty days after the date fixed for the
41 19 original meeting, it may provide that the original record date
41 20 for notice or voting continues in effect or it may fix a new
41 21 record date for notice or voting.

41 22 Sec. 62. NEW SECTION. 504.708 ACTION BY WRITTEN BALLOT.

41 23 1. Unless prohibited or limited by the articles or bylaws,
41 24 any action which may be taken at any annual, regular, or
41 25 special meeting of members may be taken without a meeting if
41 26 the corporation delivers a written ballot to every member
41 27 entitled to vote on the matter.

41 28 2. A written ballot shall do both of the following:

41 29 a. Set forth each proposed action.

41 30 b. Provide an opportunity to vote for or against each
41 31 proposed action.

41 32 3. Approval by written ballot pursuant to this section
41 33 shall be valid only when the number of votes cast by ballot
41 34 equals or exceeds the quorum required to be present at a

41 35 meeting authorizing the action, and the number of approvals
42 1 equals or exceeds the number of votes that would be required
42 2 to approve the matter at a meeting at which the total number
42 3 of votes cast was the same as the number of votes cast by
42 4 ballot.
42 5 4. All solicitations for votes by written ballot shall do
42 6 all of the following:
42 7 a. Indicate the number of responses needed to meet the
42 8 quorum requirements.
42 9 b. State the percentage of approvals necessary to approve
42 10 each matter other than election of directors.
42 11 c. Specify the time by which a ballot must be received by
42 12 the corporation in order to be counted.
42 13 5. Except as otherwise provided in the articles or bylaws,
42 14 a written ballot shall not be revoked.
42 15 6. Unless prohibited by the articles or bylaws, a written
42 16 ballot may be delivered and a vote may be cast on that ballot
42 17 by electronic transmission. An electronic transmission of a
42 18 written ballot shall contain or be accompanied by information
42 19 indicating that a member, a member's agent, or a member's
42 20 attorney authorized the electronic transmission of the ballot.

42 21 PART 2

42 22 VOTING

42 23 Sec. 63. NEW SECTION. 504.711 MEMBERS' LIST FOR MEETING.

42 24 1. After fixing a record date for a notice of a meeting, a
42 25 corporation shall prepare an alphabetical list of the names of
42 26 all its members who are entitled to notice of the meeting.
42 27 The list must show the address of each member and number of
42 28 votes each member is entitled to cast at the meeting. The
42 29 corporation shall prepare on a current basis through the time
42 30 of the membership meeting a list of members, if any, who are
42 31 entitled to vote at the meeting, but not entitled to notice of
42 32 the meeting. This list shall be prepared on the same basis as
42 33 and be part of the list of members.

42 34 2. Except as set forth in section 504.1602, subsection 6,
42 35 the list of members must be available for inspection by any
43 1 member for the purpose of communication with other members
43 2 concerning the meeting, beginning two business days after
43 3 notice is given of the meeting for which the list was prepared
43 4 and continuing through the meeting, at the corporation's
43 5 principal office or at a reasonable place identified in the
43 6 meeting notice in the city where the meeting will be held.
43 7 Except as set forth in section 504.1602, subsection 6, a
43 8 member, a member's agent, or a member's attorney is entitled
43 9 on written demand to inspect and, subject to the limitations
43 10 of section 504.1602, subsection 3, and section 504.1605, to
43 11 copy the list, at a reasonable time and at the member's
43 12 expense, during the period it is available for inspection.

43 13 3. Except as set forth in section 504.1602, subsection 6,
43 14 a corporation shall make the list of members available at the
43 15 meeting, and any member, a member's agent, or a member's
43 16 attorney is entitled to inspect the list at any time during
43 17 the meeting or any adjournment.

43 18 4. Except as set forth in section 504.1602, subsection 6,
43 19 if a corporation refuses to allow a member, a member's agent,
43 20 or a member's attorney to inspect the list of members before
43 21 or at the meeting or copy the list as permitted by subsection
43 22 2, the district court of the county where a corporation's
43 23 principal office is located or, if none is located in this
43 24 state, where its registered office is located, on application
43 25 of the member, may summarily order the inspection or copying
43 26 of the membership list at the corporation's expense, may
43 27 postpone the meeting for which the list was prepared until the
43 28 inspection or copying is complete, and may order the
43 29 corporation to pay the member's costs, including reasonable
43 30 attorney fees incurred to obtain the order.

43 31 5. Unless a written demand to inspect and copy a
43 32 membership list has been made under subsection 2 prior to the
43 33 membership meeting and a corporation improperly refuses to
43 34 comply with the demand, refusal or failure to comply with this
43 35 section does not affect the validity of action taken at the
44 1 meeting.

44 2 6. The articles or bylaws of a religious corporation may
44 3 limit or abolish the rights of a member under this section to
44 4 inspect and copy any corporate record.

44 5 Sec. 64. NEW SECTION. 504.712 VOTING ENTITLEMENT
44 6 GENERALLY.

44 7 1. The right of the members of a corporation, or any class
44 8 or classes of members, to vote may be limited, enlarged, or
44 9 denied to the extent specified in the articles of
44 10 incorporation or, if the articles of incorporation so provide,

44 11 by the bylaws. Unless so limited, enlarged, or denied, each
44 12 member, regardless of class, shall be entitled to one vote on
44 13 each matter submitted to a vote of members.

44 14 2. Unless the articles or bylaws provide otherwise, if a
44 15 membership stands of record in the names of two or more
44 16 persons, the persons' acts with respect to voting shall have
44 17 the following effect:

44 18 a. If only one votes, such act binds all.

44 19 b. If more than one votes, the vote shall be divided on a
44 20 pro rata basis.

44 21 Sec. 65. NEW SECTION. 504.713 QUORUM REQUIREMENTS.

44 22 1. Unless this subchapter, or the articles or bylaws of a
44 23 corporation provide for a higher or lower quorum, ten percent
44 24 of the votes entitled to be cast on a matter must be
44 25 represented at a meeting of members to constitute a quorum on
44 26 that matter.

44 27 2. A bylaw amendment to decrease the quorum for any member
44 28 action may be approved by the members or, unless prohibited by
44 29 the bylaws, by the board.

44 30 3. A bylaw amendment to increase the quorum required for
44 31 any member action must be approved by the members.

44 32 4. Unless one-third or more of the voting power is present
44 33 in person or by proxy, the only matters that may be voted upon
44 34 at an annual or regular meeting of members are those matters
44 35 that are described in the meeting notice.

45 1 Sec. 66. NEW SECTION. 504.714 VOTING REQUIREMENTS.

45 2 1. Unless this subchapter, or the articles or bylaws of a
45 3 corporation require a greater vote or voting by class, if a
45 4 quorum is present, the affirmative vote of the votes
45 5 represented and voting, which affirmative votes also
45 6 constitute a majority of the required quorum, is the act of
45 7 the members.

45 8 2. A bylaw amendment to increase or decrease the vote
45 9 required for any member action must be approved by the
45 10 members.

45 11 Sec. 67. NEW SECTION. 504.715 PROXIES.

45 12 1. Unless the articles or bylaws of a corporation prohibit
45 13 or limit proxy voting, a member or the member's agent or
45 14 attorney in fact may appoint a proxy to vote or otherwise act
45 15 for the member by signing an appointment form or by an
45 16 electronic transmission. An electronic transmission must
45 17 contain or be accompanied by information from which it can be
45 18 determined that the member, the member's agent, or the
45 19 member's attorney in fact authorized the electronic
45 20 transmission.

45 21 2. An appointment of a proxy is effective when a signed
45 22 appointment form or an electronic transmission of an
45 23 appointment form is received by the secretary or other officer
45 24 or agent authorized to tabulate votes. An appointment is
45 25 valid for eleven months unless a different period is expressly
45 26 provided for in the appointment. However, a proxy shall not
45 27 be valid for more than three years from its date of execution.

45 28 3. An appointment of a proxy is revocable by the member.

45 29 4. The death or incapacity of the member appointing a
45 30 proxy does not affect the right of the corporation to accept
45 31 the proxy's authority unless notice of the death or incapacity
45 32 is received by the secretary or other officer or agent
45 33 authorized to tabulate votes before the proxy exercises
45 34 authority under the appointment.

45 35 5. Appointment of a proxy is revoked by the person
46 1 appointing the proxy if either of the following occurs:

46 2 a. The person appointing the proxy attends any meeting and
46 3 votes in person.

46 4 b. The person appointing the proxy signs and delivers or
46 5 sends through electronic transmission to the secretary or
46 6 other officer or agent authorized to tabulate proxy votes
46 7 either a writing or electronic transmission stating that the
46 8 appointment of the proxy is revoked or a subsequent
46 9 appointment.

46 10 6. Subject to section 504.718 and any express limitation
46 11 on the proxy's authority appearing on the face of the
46 12 appointment form, a corporation is entitled to accept the
46 13 proxy's vote or other action as that of the member making the
46 14 appointment.

46 15 Sec. 68. NEW SECTION. 504.716 CUMULATIVE VOTING FOR
46 16 DIRECTORS.

46 17 1. If the articles or bylaws of a corporation provide for
46 18 cumulative voting by members, members may so vote, by
46 19 multiplying the number of votes the members are entitled to
46 20 cast by the number of directors for whom they are entitled to
46 21 vote, and casting the product for a single candidate or

46 22 distributing the product among two or more candidates.
46 23 2. A director elected by cumulative voting may be removed
46 24 by the members without cause if the requirements of section
46 25 504.808 are met unless the votes cast against removal, or not
46 26 consenting in writing to such removal, would be sufficient to
46 27 elect such director if voted cumulatively at an election at
46 28 which the same total number of votes were cast or, if such
46 29 action is taken by written ballot, all memberships entitled to
46 30 vote were voted, and the entire number of directors authorized
46 31 at the time of the director's most recent election were then
46 32 being elected.

46 33 3. Members shall not cumulatively vote if the directors
46 34 and members are identical.

46 35 Sec. 69. NEW SECTION. 504.717 OTHER METHODS OF ELECTING
47 1 DIRECTORS.

47 2 A corporation may provide in its articles or bylaws for
47 3 election of directors by members or delegates on the basis of
47 4 chapter or other organizational unit, by region or other
47 5 geographic unit, by preferential voting, or by any other
47 6 reasonable method.

47 7 Sec. 70. NEW SECTION. 504.718 CORPORATION'S ACCEPTANCE
47 8 OF VOTES.

47 9 1. If the name signed on a vote, consent, waiver, or proxy
47 10 appointment corresponds to the name of a member, the
47 11 corporation if acting in good faith is entitled to accept the
47 12 vote, consent, waiver, or proxy appointment and give it effect
47 13 as the act of the member.

47 14 2. If the name signed on a vote, consent, waiver, or proxy
47 15 appointment does not correspond to the record name of a
47 16 member, the corporation if acting in good faith is
47 17 nevertheless entitled to accept the vote, consent, waiver, or
47 18 proxy appointment and give it effect as the act of the member
47 19 if any of the following is applicable:

47 20 a. The member is an entity and the name signed purports to
47 21 be that of an officer or agent of the entity.

47 22 b. The name signed purports to be that of an attorney in
47 23 fact of the member and if the corporation requests, evidence
47 24 acceptable to the corporation of the signatory's authority to
47 25 sign for the member has been presented with respect to the
47 26 vote, consent, waiver, or proxy appointment.

47 27 c. Two or more persons hold the membership as cotenants or
47 28 fiduciaries and the name signed purports to be the name of at
47 29 least one of the coholders and the person signing appears to
47 30 be acting on behalf of all the coholders.

47 31 d. In the case of a mutual benefit corporation:

47 32 (1) The name signed purports to be that of an
47 33 administrator, executor, guardian, or conservator representing
47 34 the member and, if the corporation requests, evidence of
47 35 fiduciary status acceptable to the corporation has been
48 1 presented with respect to the vote, consent, waiver, or proxy
48 2 appointment.

48 3 (2) The name signed purports to be that of a receiver or
48 4 trustee in bankruptcy of the member, and, if the corporation
48 5 requests, evidence of this status acceptable to the
48 6 corporation has been presented with respect to the vote,
48 7 consent, waiver, or proxy appointment.

48 8 3. The corporation is entitled to reject a vote, consent,
48 9 waiver, or proxy appointment if the secretary or other officer
48 10 or agent authorized to tabulate votes, acting in good faith,
48 11 has reasonable basis for doubt about the validity of the
48 12 signature on it or about the signatory's authority to sign for
48 13 the member.

48 14 4. The corporation and its officer or agent who accepts or
48 15 rejects a vote, consent, waiver, or proxy appointment in good
48 16 faith and in accordance with the standards of this section are
48 17 not liable in damages to the member for the consequences of
48 18 the acceptance or rejection.

48 19 5. Corporate action based on the acceptance or rejection
48 20 of a vote, consent, waiver, or proxy appointment under this
48 21 section is valid unless a court of competent jurisdiction
48 22 determines otherwise.

48 23 PART 3
48 24 VOTING AGREEMENTS

48 25 Sec. 71. NEW SECTION. 504.721 VOTING AGREEMENTS.

48 26 1. Two or more members of a corporation may provide for
48 27 the manner in which they will vote by signing an agreement for
48 28 that purpose. For public benefit corporations, such
48 29 agreements must have a reasonable purpose not inconsistent
48 30 with the corporation's public or charitable purposes.

48 31 2. A voting agreement created under this section is
48 32 specifically enforceable.

48 33 SUBCHAPTER VIII
48 34 DIRECTORS AND OFFICERS
48 35 PART 1

49 1 BOARD OF DIRECTORS

49 2 Sec. 72. NEW SECTION. 504.801 REQUIREMENT FOR AND DUTIES
49 3 OF BOARD.

49 4 1. Each corporation must have a board of directors.

49 5 2. Except as otherwise provided in this subchapter or
49 6 subsection 3, all corporate powers shall be exercised by or
49 7 under the authority of, and the affairs of the corporation
49 8 managed under the direction of, its board.

49 9 3. The articles of incorporation may authorize a person or
49 10 persons to exercise some or all of the powers which would
49 11 otherwise be exercised by a board. To the extent so
49 12 authorized, any such person or persons shall have the duties
49 13 and responsibilities of the directors, and the directors shall
49 14 be relieved to that extent from such duties and
49 15 responsibilities.

49 16 Sec. 73. NEW SECTION. 504.802 QUALIFICATIONS OF
49 17 DIRECTORS.

49 18 All directors of a corporation must be individuals. The
49 19 articles or bylaws may prescribe other qualifications for
49 20 directors.

49 21 Sec. 74. NEW SECTION. 504.803 NUMBER OF DIRECTORS.

49 22 1. The board of directors of a corporation must consist of
49 23 one or more individuals, with the number specified in or fixed
49 24 in accordance with the articles or bylaws.

49 25 2. The number of directors may be increased or decreased
49 26 from time to time by amendment to or in the manner prescribed
49 27 in the articles or bylaws.

49 28 Sec. 75. NEW SECTION. 504.804 ELECTION, DESIGNATION, AND
49 29 APPOINTMENT OF DIRECTORS.

49 30 1. If the corporation has members, all the directors,
49 31 except the initial directors, shall be elected at the first
49 32 annual meeting of members, and at each annual meeting
49 33 thereafter, unless the articles or bylaws provide some other
49 34 time or method of election, or provide that some of the
49 35 directors are appointed by some other person or designated.

50 1 2. If a corporation does not have members, all the
50 2 directors, except the initial directors, shall be elected,
50 3 appointed, or designated as provided in the articles or
50 4 bylaws. If no method of designation or appointment is set
50 5 forth in the articles or bylaws, the directors other than the
50 6 initial directors shall be elected by the board.

50 7 Sec. 76. NEW SECTION. 504.805 TERMS OF DIRECTORS
50 8 GENERALLY.

50 9 1. The articles or bylaws of a corporation must specify
50 10 the terms of directors. Except for designated or appointed
50 11 directors, and except as otherwise provided in the articles or
50 12 bylaws, the terms of directors shall not exceed five years.
50 13 In the absence of any term specified in the articles or
50 14 bylaws, the term of each director shall be one year.
50 15 Directors may be elected for successive terms.

50 16 2. A decrease in the number or term of directors does not
50 17 shorten an incumbent director's term.

50 18 3. Except as provided in the articles or bylaws, both of
50 19 the following apply:

50 20 a. The term of a director filling a vacancy in the office
50 21 of a director elected by members expires at the next election
50 22 of directors by members.

50 23 b. The term of a director filling any other vacancy
50 24 expires at the end of the unexpired term which such director
50 25 is filling.

50 26 4. Despite the expiration of a director's term, the
50 27 director continues to serve until the director's successor is
50 28 elected, designated, or appointed, and qualifies, or until
50 29 there is a decrease in the number of directors.

50 30 Sec. 77. NEW SECTION. 504.806 STAGGERED TERMS FOR
50 31 DIRECTORS.

50 32 The articles or bylaws of a corporation may provide for
50 33 staggering the terms of directors by dividing the total number
50 34 of directors into groups. The terms of the several groups
50 35 need not be uniform.

51 1 Sec. 78. NEW SECTION. 504.807 RESIGNATION OF DIRECTORS.

51 2 1. A director of a corporation may resign at any time by
51 3 delivering written notice to the board of directors, its
51 4 presiding officer, or the president or secretary.

51 5 2. A resignation is effective when the notice is effective
51 6 unless the notice specifies a later effective date. If a
51 7 resignation is made effective at a later date, the board may
51 8 fill the pending vacancy before the effective date if the

51 9 board provides that the successor does not take office until
51 10 the effective date.

51 11 Sec. 79. NEW SECTION. 504.808 REMOVAL OF DIRECTORS
51 12 ELECTED BY MEMBERS OR DIRECTORS.

51 13 1. The members of a corporation may remove one or more
51 14 directors elected by the members without cause.

51 15 2. If a director is elected by a class, chapter, or other
51 16 organizational unit or by region or other geographic grouping,
51 17 the director may be removed only by the members of that class,
51 18 chapter, unit, or grouping.

51 19 3. Except as provided in subsection 9, a director may be
51 20 removed under subsection 1 or 2 only if the number of votes
51 21 cast to remove the director would be sufficient to elect the
51 22 director at a meeting to elect directors.

51 23 4. If cumulative voting is authorized, a director shall
51 24 not be removed if the number of votes, or if the director was
51 25 elected by a class, chapter, unit, or grouping of members, the
51 26 number of votes of that class, chapter, unit, or grouping,
51 27 sufficient to elect the director under cumulative voting, is
51 28 voted against the director's removal.

51 29 5. A director elected by members may be removed by the
51 30 members only at a meeting called for the purpose of removing
51 31 the director and the meeting notice must state that the
51 32 purpose, or one of the purposes, of the meeting is the removal
51 33 of the director.

51 34 6. For the purpose of computing whether a director is
51 35 protected from removal under subsections 2 through 4, it
52 1 should be assumed that the votes against removal are cast in
52 2 an election for the number of directors of the group to which
52 3 the director to be removed belonged on the date of that
52 4 director's election.

52 5 7. An entire board of directors may be removed under
52 6 subsections 1 through 5.

52 7 8. A director elected by the board may be removed without
52 8 cause by the vote of two-thirds of the directors then in
52 9 office or such greater number as is set forth in the articles
52 10 or bylaws. However, a director elected by the board to fill
52 11 the vacancy of a director elected by the members may be
52 12 removed without cause by the members, but not by the board.

52 13 9. If at the beginning of a director's term on the board
52 14 the articles or bylaws provide that a director may be removed
52 15 for missing a specified number of board meetings, the board
52 16 may remove the director for failing to attend the specified
52 17 number of meetings. The director may be removed only if a
52 18 majority of the directors then in office votes for the
52 19 removal.

52 20 10. The articles or bylaws of a religious corporation may
52 21 do both of the following:

52 22 a. Limit the application of this section.

52 23 b. Set forth the vote and procedures by which the board or
52 24 any person may remove with or without cause a director elected
52 25 by the members or the board.

52 26 Sec. 80. NEW SECTION. 504.809 REMOVAL OF DESIGNATED OR
52 27 APPOINTED DIRECTORS.

52 28 1. A designated director of a corporation may be removed
52 29 by an amendment to the articles or bylaws deleting or changing
52 30 the designation.

52 31 2. a. Except as otherwise provided in the articles or
52 32 bylaws, an appointed director may be removed without cause by
52 33 the person appointing the director.

52 34 b. The person removing the appointed director shall do so
52 35 by giving written notice of the removal to the director and
53 1 either the presiding officer of the board or the corporation's
53 2 president or secretary.

53 3 c. A removal of an appointed director is effective when
53 4 the notice is effective unless the notice specifies a future
53 5 effective date.

53 6 Sec. 81. NEW SECTION. 504.810 REMOVAL OF DIRECTORS BY
53 7 JUDICIAL PROCEEDING.

53 8 1. The district court of the county where a corporation's
53 9 principal office is located or if there is no principal office
53 10 located in this state, where the registered office is located,
53 11 may remove a director of the corporation from office in a
53 12 proceeding commenced by or in the right of the corporation by
53 13 a member or director if the court finds both of the following
53 14 apply:

53 15 a. A director engaged in fraudulent conduct with respect
53 16 to the corporation or its members grossly abused the position
53 17 of director, or intentionally inflicted harm on the
53 18 corporation.

53 19 b. Upon consideration of the director's course of conduct

53 20 and the inadequacy of other available remedies, the court
53 21 determines that removal is in the best interest of the
53 22 corporation.

53 23 2. A member or a director who proceeds by or in the right
53 24 of a corporation pursuant to subsection 1 shall comply with
53 25 all of the requirements of section 504.631 and sections
53 26 504.633 through 504.638.

53 27 3. The court, in addition to removing a director, may bar
53 28 the director from serving on the board for a period of time
53 29 prescribed by the court.

53 30 4. This section does not limit the equitable powers of the
53 31 court to order other relief that the court determines is
53 32 appropriate.

53 33 5. The articles or bylaws of a religious corporation may
53 34 limit or prohibit the application of this section.

53 35 Sec. 82. NEW SECTION. 504.811 VACANCY ON BOARD.

54 1 1. Unless the articles or bylaws of a corporation provide
54 2 otherwise, and except as provided in subsections 2 and 3, if a
54 3 vacancy occurs on the board of directors, including a vacancy
54 4 resulting from an increase in the number of directors, any of
54 5 the following may occur:

54 6 a. The members, if any, may fill the vacancy. If the
54 7 vacant office was held by a director elected by a class,
54 8 chapter, or other organizational unit or by region or other
54 9 geographic grouping, only members of the class, chapter, unit,
54 10 or grouping are entitled to vote to fill the vacancy if it is
54 11 filled by the members.

54 12 b. The board of directors may fill the vacancy.

54 13 c. If the directors remaining in office constitute fewer
54 14 than a quorum of the board, they may fill the vacancy by the
54 15 affirmative vote of a majority of all the directors remaining
54 16 in office.

54 17 2. Unless the articles or bylaws provide otherwise, if a
54 18 vacant office was held by an appointed director, only the
54 19 person who appointed the director may fill the vacancy.

54 20 3. If a vacant office was held by a designated director,
54 21 the vacancy shall be filled as provided in the articles or
54 22 bylaws. In the absence of an applicable article or bylaw
54 23 provision, the vacancy shall be filled by the board.

54 24 4. A vacancy that will occur at a specific later date by
54 25 reason of a resignation effective at a later date under
54 26 section 504.807, subsection 2, or otherwise, may be filled
54 27 before the vacancy occurs, but the new director shall not take
54 28 office until the vacancy occurs.

54 29 Sec. 83. NEW SECTION. 504.812 COMPENSATION OF DIRECTORS.

54 30 Unless the articles or bylaws of a corporation provide
54 31 otherwise, a board of directors may fix the compensation of
54 32 directors.

54 33 PART 2
54 34 MEETINGS AND ACTION OF THE BOARD

54 35 Sec. 84. NEW SECTION. 504.821 REGULAR AND SPECIAL

55 1 MEETINGS.
55 2 1. If the time and place of a directors' meeting is fixed
55 3 by the bylaws or the board, the meeting is a regular meeting.
55 4 All other meetings are special meetings.

55 5 2. A board of directors may hold regular or special
55 6 meetings in or out of this state.

55 7 3. Unless the articles or bylaws provide otherwise, a
55 8 board may permit any or all directors to participate in a
55 9 regular or special meeting by, or conduct the meeting through
55 10 the use of, any means of communication by which all directors
55 11 participating may simultaneously hear each other during the
55 12 meeting. A director participating in a meeting by this means
55 13 is deemed to be present in person at the meeting.

55 14 Sec. 85. NEW SECTION. 504.822 ACTION WITHOUT MEETING.

55 15 1. Except to the extent the articles or bylaws of a
55 16 corporation require that action by the board of directors be
55 17 taken at a meeting, action required or permitted by this
55 18 subchapter to be taken by the board of directors may be taken
55 19 without a meeting if each director signs a consent describing
55 20 the action to be taken, and delivers it to the corporation.
55 21 2. Action taken under this section is the act of the board
55 22 of directors when one or more consents signed by all the
55 23 directors are delivered to the corporation. The consent may
55 24 specify the time at which the action taken is to be effective.
55 25 A director's consent may be withdrawn by revocation signed by
55 26 the director and delivered to the corporation prior to the
55 27 delivery to the corporation of unrevoked written consents
55 28 signed by all of the directors.

55 29 3. A consent signed under this section has the effect of
55 30 action taken at a meeting of the board of directors and may be

55 31 described as such in any document.
55 32 Sec. 86. NEW SECTION. 504.823 CALL AND NOTICE OF
55 33 MEETINGS.
55 34 1. Unless the articles or bylaws of a corporation, or
55 35 subsection 3, provide otherwise, regular meetings of the board
56 1 may be held without notice.
56 2 2. Unless the articles, bylaws, or subsection 3 provide
56 3 otherwise, special meetings of the board must be preceded by
56 4 at least two days' notice to each director of the date, time,
56 5 and place, but not the purpose, of the meeting.
56 6 3. In corporations without members, any board action to
56 7 remove a director or to approve a matter which would require
56 8 approval by the members if the corporation had members shall
56 9 not be valid unless each director is given at least seven
56 10 days' written notice that the matter will be voted upon at a
56 11 directors' meeting or unless notice is waived pursuant to
56 12 section 504.824.

56 13 4. Unless the articles or bylaws provide otherwise, the
56 14 presiding officer of the board, the president, or twenty
56 15 percent of the directors then in office may call and give
56 16 notice of a meeting of the board.

56 17 Sec. 87. NEW SECTION. 504.824 WAIVER OF NOTICE.

56 18 1. A director may at any time waive any notice required by
56 19 this subchapter, the articles, or bylaws. Except as provided
56 20 in subsection 2, the waiver must be in writing, signed by the
56 21 director entitled to the notice, and filed with the minutes or
56 22 the corporate records.

56 23 2. A director's attendance at or participation in a
56 24 meeting waives any required notice of the meeting unless the
56 25 director, upon arriving at the meeting or prior to the vote on
56 26 a matter not noticed in conformity with this subchapter, the
56 27 articles, or bylaws, objects to lack of notice and does not
56 28 thereafter vote for or assent to the objected-to action.

56 29 Sec. 88. NEW SECTION. 504.825 QUORUM AND VOTING.

56 30 1. Except as otherwise provided in this subchapter, or the
56 31 articles or bylaws of a corporation, a quorum of a board of
56 32 directors consists of a majority of the directors in office
56 33 immediately before a meeting begins. The articles or bylaws
56 34 shall not authorize a quorum of fewer than one-third of the
56 35 number of directors in office.

57 1 2. If a quorum is present when a vote is taken, the
57 2 affirmative vote of a majority of directors present is the act
57 3 of the board unless this subchapter, the articles, or bylaws
57 4 require the vote of a greater number of directors.

57 5 Sec. 89. NEW SECTION. 504.826 COMMITTEES OF THE BOARD.

57 6 1. Unless prohibited or limited by the articles or bylaws
57 7 of a corporation, the board of directors may create one or
57 8 more committees of the board and appoint members of the board
57 9 to serve on them. Each committee shall have two or more
57 10 directors, who serve at the pleasure of the board.

57 11 2. The creation of a committee and appointment of members
57 12 to it must be approved by the greater of either of the
57 13 following:

57 14 a. A majority of all the directors in office when the
57 15 action is taken.

57 16 b. The number of directors required by the articles or
57 17 bylaws to take action under section 504.825.

57 18 3. Sections 504.821 through 504.825, which govern
57 19 meetings, action without meetings, notice and waiver of
57 20 notice, and quorum and voting requirements of the board, apply
57 21 to committees of the board and their members as well.

57 22 4. To the extent specified by the board of directors or in
57 23 the articles or bylaws, each committee of the board may
57 24 exercise the board's authority under section 504.801.

57 25 5. A committee of the board shall not, however, do any of
57 26 the following:

57 27 a. Authorize distributions.

57 28 b. Approve or recommend to members dissolution, merger, or
57 29 the sale, pledge, or transfer of all or substantially all of
57 30 the corporation's assets.

57 31 c. Elect, appoint, or remove directors or fill vacancies
57 32 on the board or on any of its committees.

57 33 d. Adopt, amend, or repeal the articles or bylaws.

57 34 6. The creation of, delegation of authority to, or action
57 35 by a committee does not alone constitute compliance by a

58 1 director with the standards of conduct described in section
58 2 504.831.

58 3
58 4 PART 3
58 4 STANDARDS OF CONDUCT

58 5 Sec. 90. NEW SECTION. 504.831 GENERAL STANDARDS FOR
58 6 DIRECTORS.

58 7 1. Each member of the board of directors of a corporation,
58 8 when discharging the duties of a director, shall act in
58 9 conformity with all of the following:

58 10 a. In good faith.

58 11 b. In a manner the director reasonably believes to be in
58 12 the best interests of the corporation.

58 13 2. The members of the board of directors or a committee of
58 14 the board, when becoming informed in connection with their
58 15 decision-making functions, shall discharge their duties with
58 16 the care that a person in a like position would reasonably
58 17 believe appropriate under similar circumstances.

58 18 3. In discharging board or committee duties, a director
58 19 who does not have knowledge that makes reliance unwarranted is
58 20 entitled to rely on the performance by any of the persons
58 21 specified in subsection 5, paragraph "a", to whom the board
58 22 may have delegated, formally or informally by course of
58 23 conduct, the authority or duty to perform one or more of the
58 24 board's functions that are delegable under applicable law.

58 25 4. In discharging board or committee duties, a director is
58 26 entitled to rely on information, opinions, reports, or
58 27 statements, including financial statements and other financial
58 28 data, if prepared or presented by any of the persons specified
58 29 in subsection 5.

58 30 5. A director is entitled to rely, in accordance with
58 31 subsection 3 or 4, on any of the following:

58 32 a. One or more officers or employees of the corporation
58 33 whom the director reasonably believes to be reliable and
58 34 competent in the functions performed or the information,
58 35 opinions, reports, or statements provided by the officer or
59 1 employee.

59 2 b. Legal counsel, public accountants, or other persons as
59 3 to matters involving skills or expertise the director
59 4 reasonably believes are either of the following:

59 5 (1) Matters within the particular person's professional or
59 6 expert competence.

59 7 (2) Matters as to which the particular person merits
59 8 confidence.

59 9 c. A committee of the board of which the director is not a
59 10 member, as to matters within its jurisdiction, if the director
59 11 reasonably believes the committee merits confidence.

59 12 d. In the case of religious corporations, religious
59 13 authorities and ministers, priests, rabbis, or other persons
59 14 whose position or duties in the religious organization the
59 15 director believes justify reliance and confidence and whom the
59 16 director believes to be reliable and competent in the matters
59 17 presented.

59 18 6. A director shall not be deemed to be a trustee with
59 19 respect to the corporation or with respect to any property
59 20 held or administered by the corporation, including without
59 21 limit, property that may be subject to restrictions imposed by
59 22 the donor or transferor of such property.

59 23 Sec. 91. NEW SECTION. 504.832 STANDARDS OF LIABILITY FOR
59 24 DIRECTORS.

59 25 1. A director shall not be liable to the corporation or
59 26 its members for any decision to take or not to take action, or
59 27 any failure to take any action, as director, unless the party
59 28 asserting liability in a proceeding establishes both of the
59 29 following:

59 30 a. That section 504.901 or the protection afforded by
59 31 section 504.831, if interposed as a bar to the proceeding by
59 32 the director, does not preclude liability.

59 33 b. That the challenged conduct consisted or was the result
59 34 of one of the following:

59 35 (1) Action not in good faith.

60 1 (2) A decision that satisfies one of the following:

60 2 (a) That the director did not reasonably believe to be in
60 3 the best interests of the corporation.

60 4 (b) As to which the director was not informed to an extent
60 5 the director reasonably believed appropriate in the
60 6 circumstances.

60 7 (3) A lack of objectivity due to the director's familial,
60 8 financial, or business relationship with, or lack of
60 9 independence due to the director's domination or control by,
60 10 another person having a material interest in the challenged
60 11 conduct which also meets both of the following criteria:

60 12 (a) Which relationship or which domination or control
60 13 could reasonably be expected to have affected the director's
60 14 judgment respecting the challenged conduct in a manner adverse
60 15 to the corporation.

60 16 (b) After a reasonable expectation to such effect has been
60 17 established, the director shall not have established that the

60 18 challenged conduct was reasonably believed by the director to
60 19 be in the best interests of the corporation.

60 20 (4) A sustained failure of the director to devote
60 21 attention to ongoing oversight of the business and affairs of
60 22 the corporation, or a failure to devote timely attention, by
60 23 making, or causing to be made, appropriate inquiry, when
60 24 particular facts and circumstances of significant concern
60 25 materialize that would alert a reasonably attentive director
60 26 to the need therefor.

60 27 (5) Receipt of a financial benefit to which the director
60 28 was not entitled or any other breach of the director's duties
60 29 to deal fairly with the corporation and its members that is
60 30 actionable under applicable law.

60 31 2. a. A party seeking to hold a director liable for money
60 32 damages shall also have the burden of establishing both of the
60 33 following:

60 34 (1) That harm to the corporation or its members has been
60 35 suffered.

61 1 (2) The harm suffered was proximately caused by the
61 2 director's challenged conduct.

61 3 b. A party seeking to hold a director liable for other
61 4 money payment under a legal remedy, such as compensation for
61 5 the unauthorized use of corporate assets, shall also have
61 6 whatever burden of persuasion that may be called for to
61 7 establish that the payment sought is appropriate in the
61 8 circumstances.

61 9 c. A party seeking to hold a director liable for other
61 10 money payment under an equitable remedy, such as profit
61 11 recovery by or disgorgement to the corporation, shall also
61 12 have whatever burden of persuasion that may be called for to
61 13 establish that the equitable remedy sought is appropriate in
61 14 the circumstances.

61 15 3. This section shall not do any of the following:

61 16 a. In any instance where fairness is at issue, such as
61 17 consideration of the fairness of a transaction to the
61 18 corporation under section 504.833, alter the burden of proving
61 19 the fact or lack of fairness otherwise applicable.

61 20 b. Alter the fact or lack of liability of a director under
61 21 another section of this chapter, such as the provisions
61 22 governing the consequences of a transactional interest under
61 23 section 504.833 or an unlawful distribution under section
61 24 504.835.

61 25 c. Affect any rights to which the corporation or a
61 26 shareholder may be entitled under another statute of this
61 27 state or the United States.

61 28 Sec. 92. NEW SECTION. 504.833 DIRECTOR CONFLICT OF
61 29 INTEREST.

61 30 1. A conflict of interest transaction is a transaction
61 31 with the corporation in which a director of the corporation
61 32 has a direct or indirect interest. A conflict of interest
61 33 transaction is not voidable by the corporation on the basis of
61 34 the director's interest in the transaction if the transaction
61 35 was fair at the time it was entered into or is approved as
62 1 provided in subsection 2.

62 2 2. A transaction in which a director of a mutual benefit
62 3 corporation has a conflict of interest may be approved if
62 4 either of the following occurs:

62 5 a. The material facts of the transaction and the
62 6 director's interest were disclosed or known to the board of
62 7 directors or a committee of the board and the board or
62 8 committee of the board authorized, approved, or ratified the
62 9 transaction.

62 10 b. The material facts of the transaction and the
62 11 director's interest were disclosed or known to the members and
62 12 they authorized, approved, or ratified the transaction.

62 13 3. For the purposes of this section, a director of the
62 14 corporation has an indirect interest in a transaction under
62 15 either of the following circumstances:

62 16 a. If another entity in which the director has a material
62 17 interest or in which the director is a general partner is a
62 18 party to the transaction.

62 19 b. If another entity of which the director is a director,
62 20 officer, or trustee is a party to the transaction.

62 21 4. For purposes of subsection 2, a conflict of interest
62 22 transaction is authorized, approved, or ratified if it
62 23 receives the affirmative vote of a majority of the directors
62 24 on the board or on a committee of the board, who have no
62 25 direct or indirect interest in the transaction, but a
62 26 transaction shall not be authorized, approved, or ratified
62 27 under this section by a single director. If a majority of the
62 28 directors on the board who have no direct or indirect interest

62 29 in the transaction vote to authorize, approve, or ratify the
62 30 transaction, a quorum is present for the purpose of taking
62 31 action under this section. The presence of, or a vote cast
62 32 by, a director with a direct or indirect interest in the
62 33 transaction does not affect the validity of any action taken
62 34 under subsection 2, paragraph "a", if the transaction is
62 35 otherwise approved as provided in subsection 2.
63 1 6. For purposes of subsection 2, paragraph "b", a conflict
63 2 of interest transaction is authorized, approved, or ratified
63 3 by the members if it receives a majority of the votes entitled
63 4 to be counted under this subsection. Votes cast by or voted
63 5 under the control of a director who has a direct or indirect
63 6 interest in the transaction, and votes cast by or voted under
63 7 the control of an entity described in subsection 3, paragraph
63 8 "a", shall not be counted in a vote of members to determine
63 9 whether to authorize, approve, or ratify a conflict of
63 10 interest transaction under subsection 2, paragraph "b". The
63 11 vote of these members, however, is counted in determining
63 12 whether the transaction is approved under other sections of
63 13 this subchapter. A majority of the voting power, whether or
63 14 not present, that is entitled to be counted in a vote on the
63 15 transaction under this subsection constitutes a quorum for the
63 16 purpose of taking action under this section.
63 17 6. The articles, bylaws, or a resolution of the board may
63 18 impose additional requirements on conflict of interest
63 19 transactions.

63 20 Sec. 93. NEW SECTION. 504.834 LOANS TO OR GUARANTEES FOR
63 21 DIRECTORS AND OFFICERS.

63 22 1. A corporation shall not lend money to or guarantee the
63 23 obligation of a director or officer of the corporation.

63 24 2. The fact that a loan or guarantee is made in violation
63 25 of this section does not affect the borrower's liability on
63 26 the loan.

63 27 Sec. 94. NEW SECTION. 504.835 LIABILITY FOR UNLAWFUL
63 28 DISTRIBUTIONS.

63 29 1. Unless a director complies with the applicable
63 30 standards of conduct described in section 504.831, a director
63 31 who votes for or assents to a distribution made in violation
63 32 of this subchapter is personally liable to the corporation for
63 33 the amount of the distribution that exceeds what could have
63 34 been distributed without violating this subchapter.

63 35 2. A director held liable for an unlawful distribution
64 1 under subsection 1 is entitled to contribution from both of
64 2 the following:

64 3 a. Every other director who voted for or assented to the
64 4 distribution without complying with the applicable standards
64 5 of conduct described in section 504.831.

64 6 b. Each person who received an unlawful distribution for
64 7 the amount of the distribution whether or not the person
64 8 receiving the distribution knew it was made in violation of
64 9 this subchapter.

64 10 PART 4
64 11 OFFICERS

64 12 Sec. 95. NEW SECTION. 504.841 REQUIRED OFFICERS.

64 13 1. Unless otherwise provided in the articles or bylaws of
64 14 a corporation, a corporation shall have a president, a
64 15 secretary, a treasurer, and such other officers as are
64 16 appointed by the board. An officer may appoint one or more
64 17 officers if authorized by the bylaws or the board of
64 18 directors.

64 19 2. The bylaws or the board shall delegate to one of the
64 20 officers responsibility for preparing minutes of the
64 21 directors' and members' meetings and for authenticating
64 22 records of the corporation.

64 23 3. The same individual may simultaneously hold more than
64 24 one office in a corporation.

64 25 Sec. 96. NEW SECTION. 504.842 DUTIES AND AUTHORITY OF
64 26 OFFICERS.

64 27 Each officer of a corporation has the authority and shall
64 28 perform the duties set forth in the bylaws or, to the extent
64 29 consistent with the bylaws, the duties and authority
64 30 prescribed in a resolution of the board or by direction of an
64 31 officer authorized by the board to prescribe the duties and
64 32 authority of other officers.

64 33 Sec. 97. NEW SECTION. 504.843 STANDARDS OF CONDUCT FOR
64 34 OFFICERS.

64 35 1. An officer, when performing in such capacity, shall act
65 1 in conformity with all of the following:

65 2 a. In good faith.

65 3 b. With the care that a person in a like position would
65 4 reasonably exercise under similar circumstances.

65 5 c. In a manner the officer reasonably believes to be in
65 6 the best interests of the corporation and its members, if any.

65 7 2. In discharging the officer's duties, an officer who
65 8 does not have knowledge that makes reliance unwarranted, is
65 9 entitled to rely on any of the following:

65 10 a. The performance of properly delegated responsibilities
65 11 by one or more employees of the corporation whom the officer
65 12 reasonably believes to be reliable and competent in performing
65 13 the responsibilities delegated.

65 14 b. Information, opinions, reports, or statements,
65 15 including financial statements and other financial data,
65 16 prepared or presented by one or more officers or employees of
65 17 the corporation whom the officer reasonably believes to be
65 18 reliable and competent in the matters presented.

65 19 c. Legal counsel, public accountants, or other persons
65 20 retained by the corporation as to matters involving the skills
65 21 or expertise the officer reasonably believes are within the
65 22 person's professional or expert competence, or as to which the
65 23 particular person merits confidence.

65 24 d. In the case of religious corporations, religious
65 25 authorities, and ministers, priests, rabbis, or other persons
65 26 whose position or duties in the religious organization the
65 27 officer believes justify reliance and confidence and whom the
65 28 officer believes to be reliable and competent in the matters
65 29 presented.

65 30 3. An officer shall not be liable as an officer to the
65 31 corporation or its members for any decision to take or not to
65 32 take action, or any failure to take any action, if the duties
65 33 of the officer are performed in compliance with this section.
65 34 Whether an officer who does not comply with this section shall
65 35 have liability will depend in such instance on applicable law,
66 1 including those principles of sections 504.832 and 504.901
66 2 that have relevance.

66 3 Sec. 98. NEW SECTION. 504.844 RESIGNATION AND REMOVAL OF
66 4 OFFICERS.

66 5 1. An officer of a corporation may resign at any time by
66 6 delivering notice to the corporation. A resignation is
66 7 effective when the notice is effective unless the notice
66 8 specifies a future effective time. If a resignation is made
66 9 effective at a future time and the board or appointing officer
66 10 accepts the future effective time, its board or appointing
66 11 officer may fill the pending vacancy before the effective time
66 12 if the board or appointing officer provides that the successor
66 13 does not take office until the effective time.

66 14 2. An officer may be removed at any time with or without
66 15 cause by any of the following:

66 16 a. The board of directors.

66 17 b. The officer who appointed such officer, unless the
66 18 bylaws or the board of directors provide otherwise.

66 19 c. Any other officer if authorized by the bylaws or the
66 20 board of directors.

66 21 d. In this section, "appointing officer" means the
66 22 officer, including any successor to that officer, who
66 23 appointed the officer resigning or being removed.

66 24 Sec. 99. NEW SECTION. 504.845 CONTRACT RIGHTS OF
66 25 OFFICERS.

66 26 1. The appointment of an officer of a corporation does not
66 27 itself create contract rights.

66 28 2. An officer's removal does not affect the officer's
66 29 contract rights, if any, with the corporation. An officer's
66 30 resignation does not affect the corporation's contract rights,
66 31 if any, with the officer.

66 32 Sec. 100. NEW SECTION. 504.846 OFFICERS' AUTHORITY TO
66 33 EXECUTE DOCUMENTS.

66 34 1. A contract or other instrument in writing executed or
66 35 entered into between a corporation and any other person is not
67 1 invalidated as to the corporation by any lack of authority of
67 2 the signing officers in the absence of actual knowledge on the
67 3 part of the other person that the signing officers had no
67 4 authority to execute the contract or other instrument if it is
67 5 signed by any two officers in category 1 or by one officer in
67 6 category 1 and one officer in category 2 as set out in
67 7 subsection 2.

67 8 2. a. Category 1 officers include the presiding officer
67 9 of the board and the president.

67 10 b. Category 2 officers include a vice president and the
67 11 secretary, treasurer, and executive director.

67 12 PART 5
67 13 INDEMNIFICATION

67 14 Sec. 101. NEW SECTION. 504.851 DEFINITIONS.

67 15 As used in this part, unless the context otherwise

67 16 requires:

67 17 1. "Corporation" includes any domestic or foreign
67 18 predecessor entity of a corporation in a merger.

67 19 2. "Director" or "officer" means an individual who is or
67 20 was a director or officer of a corporation or an individual
67 21 who, while a director or officer of a corporation, is or was
67 22 serving at the corporation's request as a director, officer,
67 23 partner, trustee, employee, or agent of another foreign or
67 24 domestic business or nonprofit corporation, partnership, joint
67 25 venture, trust, employee benefit plan, or other entity. A
67 26 "director" or "officer" is considered to be serving an
67 27 employee benefit plan at the corporation's request if the
67 28 director's or officer's duties to the corporation also impose
67 29 duties on, or otherwise involve services by, the director or
67 30 officer to the plan or to participants in or beneficiaries of
67 31 the plan. "Director" or "officer" includes, unless the
67 32 context otherwise requires, the estate or personal
67 33 representative of a director or officer.

67 34 3. "Disinterested director" means a director who at the
67 35 time of a vote referred to in section 504.854, subsection 3,
68 1 or a vote or selection referred to in section 504.856,
68 2 subsection 2 or 3, is not either of the following:

68 3 a. A party to the proceeding.

68 4 b. An individual having a familial, financial,
68 5 professional, or employment relationship with the director
68 6 whose indemnification or advance for expenses is the subject
68 7 of the decision being made, which relationship would, in the
68 8 circumstances, reasonably be expected to exert an influence on
68 9 the director's judgment when voting on the decision being
68 10 made.

68 11 4. "Expenses" includes attorney fees.

68 12 5. "Liability" means the obligation to pay a judgment,
68 13 settlement, penalty, or fine including an excise tax assessed
68 14 with respect to an employee benefit plan, or reasonable
68 15 expenses actually incurred with respect to a proceeding.

68 16 6. "Official capacity" means either of the following:

68 17 a. When used with respect to a director, the office of
68 18 director in a corporation.

68 19 b. When used with respect to an officer, as contemplated
68 20 in section 504.857, the office in a corporation held by the
68 21 officer. "Official capacity" does not include service for any
68 22 other foreign or domestic business or nonprofit corporation or
68 23 any partnership joint venture, trust, employee benefit plan,
68 24 or other entity.

68 25 7. "Party" means an individual who was, is, or is
68 26 threatened to be made a defendant or respondent in a
68 27 proceeding.

68 28 8. "Proceeding" means any threatened, pending, or
68 29 completed action, suit, or proceeding whether civil, criminal,
68 30 administrative, or investigative and whether formal or
68 31 informal.

68 32 Sec. 102. NEW SECTION. 504.852 PERMISSIBLE
68 33 INDEMNIFICATION.

68 34 1. Except as otherwise provided in this section, a
68 35 corporation may indemnify an individual who is a party to a
69 1 proceeding because the individual is a director, against
69 2 liability incurred in the proceeding if all of the following
69 3 apply:

69 4 a. The individual acted in good faith.

69 5 b. The individual reasonably believed either of the
69 6 following:

69 7 (1) In the case of conduct in the individual's official
69 8 capacity, that the individual's conduct was in the best
69 9 interests of the corporation.

69 10 (2) In all other cases, that the individual's conduct was
69 11 at least not opposed to the best interests of the corporation.

69 12 c. In the case of any criminal proceeding, the individual
69 13 had no reasonable cause to believe the individual's conduct
69 14 was unlawful.

69 15 d. The individual engaged in conduct for which broader
69 16 indemnification has been made permissible or obligatory under
69 17 a provision of the articles of incorporation as authorized by
69 18 section 504.202, subsection 2, paragraph "d".

69 19 2. A director's conduct with respect to an employee
69 20 benefit plan for a purpose the director reasonably believed to
69 21 be in the interests of the participants in and beneficiaries
69 22 of the plan is conduct that satisfies the requirements of
69 23 subsection 1, paragraph "b", subparagraph (2).

69 24 3. The termination of a proceeding by judgment, order,
69 25 settlement, conviction, or upon a plea of nolo contendere or
69 26 its equivalent is not, of itself, determinative that the

69 27 director did not meet the relevant standard of conduct
69 28 described in this section.

69 29 4. Unless ordered by a court under section 504.855,
69 30 subsection 1, paragraph "b", a corporation shall not indemnify
69 31 a director under this section under either of the following
69 32 circumstances:

69 33 a. In connection with a proceeding by or in the right of
69 34 the corporation, except for reasonable expenses incurred in
69 35 the relevant standard of conduct under subsection 1.

70 1 b. In connection with any proceeding with respect to
70 2 conduct for which the director was adjudged liable on the
70 3 basis that the director received a financial benefit to which
70 4 the director was not entitled, whether or not involving action
70 5 in the director's official capacity.

70 6 Sec. 103. NEW SECTION. 504.853 MANDATORY
70 7 INDEMNIFICATION.

70 8 A corporation shall indemnify a director who was wholly
70 9 successful, on the merits or otherwise, in the defense of any
70 10 proceeding to which the director was a party because the
70 11 director is or was a director of the corporation against
70 12 reasonable expenses actually incurred by the director in
70 13 connection with the proceeding.

70 14 Sec. 104. NEW SECTION. 504.854 ADVANCE FOR EXPENSES.

70 15 1. A corporation may, before final disposition of a
70 16 proceeding, advance funds to pay for or reimburse the
70 17 reasonable expenses incurred by a director who is a party to a
70 18 proceeding because the person is a director if the person
70 19 delivers all of the following to the corporation:

70 20 a. A written affirmation of the director's good faith
70 21 belief that the director has met the relevant standard of
70 22 conduct described in section 504.852 or that the proceeding
70 23 involved conduct for which liability has been eliminated under
70 24 a provision of the articles of incorporation as authorized by
70 25 section 504.202, subsection 2, paragraph "d".

70 26 b. The director's written undertaking to repay any funds
70 27 advanced if the director is not entitled to mandatory
70 28 indemnification under section 504.853 and it is ultimately
70 29 determined under section 504.855 or 504.856 that the director
70 30 has not met the relevant standard of conduct described in
70 31 section 504.852.

70 32 2. The undertaking required by subsection 1, paragraph
70 33 "b", must be an unlimited general obligation of the director
70 34 but need not be secured and may be accepted without reference
70 35 to the financial ability of the director to make repayment.

71 1 3. Authorizations under this section shall be made
71 2 according to one of the following:

71 3 a. By the board of directors as follows:

71 4 (1) If there are two or more disinterested directors, by a
71 5 majority vote of all the disinterested directors, a majority
71 6 of whom shall for such purpose constitute a quorum, or by a
71 7 majority of the members of a committee of two or more
71 8 disinterested directors appointed by such vote.

71 9 (2) If there are fewer than two disinterested directors,
71 10 by the vote necessary for action by the board in accordance
71 11 with section 504.825, subsection 2, in which authorization
71 12 directors who do not qualify as disinterested directors may
71 13 participate.

71 14 b. By the members, but the director who, at the time does
71 15 not qualify as a disinterested director, may not vote as a
71 16 member or on behalf of a member.

71 17 Sec. 105. NEW SECTION. 504.855 COURT-ORDERED
71 18 INDEMNIFICATION.

71 19 1. A director who is a party to a proceeding because the
71 20 person is a director may apply for indemnification or an
71 21 advance for expenses to the court conducting the proceeding or
71 22 to another court of competent jurisdiction. After receipt of
71 23 an application, and after giving any notice the court
71 24 considers necessary, the court shall do one of the following:

71 25 a. Order indemnification if the court determines that the
71 26 director is entitled to mandatory indemnification under
71 27 section 504.853.

71 28 b. Order indemnification or advance for expenses if the
71 29 court determines that the director is entitled to
71 30 indemnification or advance for expenses pursuant to a
71 31 provision authorized by section 504.859, subsection 1.

71 32 c. Order indemnification or advance for expenses if the
71 33 court determines, in view of all the relevant circumstances,
71 34 that it is fair and reasonable to do one of the following:

71 35 (1) To indemnify the director.

72 1 (2) To indemnify or advance expenses to the director, even
72 2 if the director has not met the relevant standard of conduct

72 3 set forth in section 504.852, subsection 1, failed to comply
72 4 with section 504.854 or was adjudged liable in a proceeding
72 5 referred to in section 504.852, subsection 4, paragraph "a" or
72 6 "b", but if the director was adjudged so liable the director's
72 7 indemnification shall be limited to reasonable expenses
72 8 incurred in connection with the proceeding.

72 9 2. If the court determines that the director is entitled
72 10 to indemnification under subsection 1, paragraph "a", or to
72 11 indemnification or advance for expenses under subsection 1,
72 12 paragraph "b", it shall also order the corporation to pay the
72 13 director's reasonable expenses incurred in connection with
72 14 obtaining court-ordered indemnification or advance for
72 15 expenses. If the court determines that the director is
72 16 entitled to indemnification or advance for expenses under
72 17 subsection 1, paragraph "c", it may also order the corporation
72 18 to pay the director's reasonable expenses to obtain court=
72 19 ordered indemnification or advance for expenses.

72 20 Sec. 106. NEW SECTION. 504.856 DETERMINATION AND
72 21 AUTHORIZATION OF INDEMNIFICATION.

72 22 1. A corporation shall not indemnify a director under
72 23 section 504.852 unless authorized for a specific proceeding
72 24 after a determination has been made that indemnification of
72 25 the director is permissible because the director has met the
72 26 standard of conduct set forth in section 504.852.

72 27 2. The determination shall be made by any of the
72 28 following:

72 29 a. If there are two or more disinterested directors, by
72 30 the board of directors by a majority vote of all the
72 31 disinterested directors, a majority of whom shall for such
72 32 purpose constitute a quorum, or by a majority of the members
72 33 of a committee of two or more disinterested directors
72 34 appointed by such vote.

72 35 b. By special legal counsel under one of the following
73 1 circumstances:

73 2 (1) Selected in the manner prescribed in paragraph "a".

73 3 (2) If there are fewer than two disinterested directors
73 4 selected by the board in which selection directors who do not
73 5 qualify as disinterested directors may participate.

73 6 c. By the members of a mutual benefit corporation, but
73 7 directors who are at the time parties to the proceeding shall
73 8 not vote on the determination.

73 9 3. Authorization of indemnification shall be made in the
73 10 same manner as the determination that indemnification is
73 11 permissible, except that if there are fewer than two
73 12 disinterested directors or if the determination is made by
73 13 special legal counsel, authorization of indemnification shall
73 14 be made by those entitled under subsection 2, paragraph "c",
73 15 to select special legal counsel.

73 16 Sec. 107. NEW SECTION. 504.857 INDEMNIFICATION OF
73 17 OFFICERS.

73 18 1. A corporation may indemnify and advance expenses under
73 19 this part to an officer of the corporation who is a party to a
73 20 proceeding because the person is an officer, according to all
73 21 of the following:

73 22 a. To the same extent as to a director.

73 23 b. If the person is an officer but not a director, to such
73 24 further extent as may be provided by the articles of
73 25 incorporation, the bylaws, a resolution of the board of
73 26 directors, or contract, except for either of the following:

73 27 (1) Liability in connection with a proceeding by or in the
73 28 right of the corporation other than for reasonable expenses
73 29 incurred in connection with the proceeding.

73 30 (2) Liability arising out of conduct that constitutes any
73 31 of the following:

73 32 (a) Receipt by the officer of a financial benefit to which
73 33 the officer is not entitled.

73 34 (b) An intentional infliction of harm on the corporation
73 35 or the shareholders.

74 1 (c) An intentional violation of criminal law.

74 2 2. The provisions of subsection 1, paragraph "b", shall
74 3 apply to an officer who is also a director if the basis on
74 4 which the officer is made a party to a proceeding is an act or
74 5 omission solely as an officer.

74 6 3. An officer of a corporation who is not a director is
74 7 entitled to mandatory indemnification under section 504.853,
74 8 and may apply to a court under section 504.855 for
74 9 indemnification or an advance for expenses, in each case to
74 10 the same extent to which a director may be entitled to
74 11 indemnification or advance for expenses under those
74 12 provisions.

74 13 Sec. 108. NEW SECTION. 504.858 INSURANCE.

74 14 A corporation may purchase and maintain insurance on behalf
74 15 of an individual who is a director or officer of the
74 16 corporation, or who, while a director or officer of the
74 17 corporation, serves at the request of the corporation as a
74 18 director, officer, partner, trustee, employee, or agent of
74 19 another domestic business or nonprofit corporation,
74 20 partnership, joint venture, trust, employee benefit plan, or
74 21 other entity, against liability asserted against or incurred
74 22 by the individual in that capacity or arising from the
74 23 individual's status as a director, officer, whether or not the
74 24 corporation would have power to indemnify or advance expenses
74 25 to that individual against the same liability under this part.

74 26 Sec. 109. NEW SECTION. 504.859 APPLICATION OF PART.

74 27 1. A corporation may, by a provision in its articles of
74 28 incorporation or bylaws or in a resolution adopted or a
74 29 contract approved by its board of directors or members,
74 30 obligate itself in advance of the act or omission giving rise
74 31 to a proceeding to provide indemnification in accordance with
74 32 section 504.852 or advance funds to pay for or reimburse
74 33 expenses in accordance with section 504.854. Any such
74 34 obligatory provision shall be deemed to satisfy the
74 35 requirements for authorization referred to in section 504.854,
75 1 subsection 3, and in section 504.856, subsection 2 or 3. Any
75 2 such provision that obligates the corporation to provide
75 3 indemnification to the fullest extent permitted by law shall
75 4 be deemed to obligate the corporation to advance funds to pay
75 5 for or reimburse expenses in accordance with section 504.854
75 6 to the fullest extent permitted by law, unless the provision
75 7 specifically provides otherwise.

75 8 2. Any provision pursuant to subsection 1 shall not
75 9 obligate the corporation to indemnify or advance expenses to a
75 10 director of a predecessor of the corporation, pertaining to
75 11 conduct with respect to the predecessor, unless otherwise
75 12 specifically provided. Any provision for indemnification or
75 13 advance for expenses in the articles of incorporation, bylaws,
75 14 or a resolution of the board of directors or members of a
75 15 predecessor of the corporation in a merger or in a contract to
75 16 which the predecessor is a party, existing at the time the
75 17 merger takes effect, shall be governed by section 504.1104.

75 18 3. A corporation may, by a provision in its articles of
75 19 incorporation, limit any of the rights to indemnification or
75 20 advance for expenses created by or pursuant to this part.

75 21 4. This part does not limit a corporation's power to pay
75 22 or reimburse expenses incurred by a director or an officer in
75 23 connection with the director's or officer's appearance as a
75 24 witness in a proceeding at a time when the director or officer
75 25 is not a party.

75 26 5. This part does not limit a corporation's power to
75 27 indemnify, advance expenses to, or provide or maintain
75 28 insurance on behalf of an employee or agent.

75 29 Sec. 110. NEW SECTION. 504.860 EXCLUSIVITY OF PART.

75 30 A corporation may provide indemnification or advance
75 31 expenses to a director or an officer only as permitted by this
75 32 part.

75 33 SUBCHAPTER IX
75 34 PERSONAL LIABILITY

75 35 Sec. 111. NEW SECTION. 504.901 PERSONAL LIABILITY.

76 1 Except as otherwise provided in this chapter, a director,
76 2 officer, employee, or member of a corporation is not liable
76 3 for the corporation's debts or obligations and a director,
76 4 officer, member, or other volunteer is not personally liable
76 5 in that capacity, to any person for any action taken or
76 6 failure to take any action in the discharge of the person's
76 7 duties except liability for any of the following:

76 8 1. The amount of any financial benefit to which the person
76 9 is not entitled.

76 10 2. An intentional infliction of harm on the corporation or
76 11 the members.

76 12 3. A violation of section 504.834.

76 13 4. An intentional violation of criminal law.

76 14 SUBCHAPTER X

76 15 AMENDMENT OF ARTICLES OF INCORPORATION AND BYLAWS
76 16 PART 1

76 17 ARTICLES OF INCORPORATION

76 18 Sec. 112. NEW SECTION. 504.1001 AUTHORITY TO AMEND.

76 19 A corporation may amend its articles of incorporation at
76 20 any time to add or change a provision that is required or
76 21 permitted in the articles or to delete a provision not
76 22 required in the articles. Whether a provision is required or
76 23 permitted in the articles is determined as of the effective
76 24 date of the amendment.

76 25 Sec. 113. NEW SECTION. 504.1002 AMENDMENT BY DIRECTORS.

76 26 1. Unless the articles provide otherwise, a corporation's
76 27 board of directors may adopt one or more amendments to the
76 28 corporation's articles without member approval to do any of
76 29 the following:

76 30 a. Extend the duration of the corporation if it was
76 31 incorporated at a time when limited duration was required by
76 32 law.

76 33 b. Delete the names and addresses of the initial
76 34 directors.

76 35 c. Delete the name and address of the initial registered
77 1 agent or registered office, if a statement of change is on
77 2 file with the secretary of state.

77 3 d. Change the corporate name by substituting the word
77 4 "corporation", "incorporated", "company", "limited", or the
77 5 abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar
77 6 word or abbreviation in the name, or by adding, deleting, or
77 7 changing a geographical attribution to the name.

77 8 e. Make any other change expressly permitted by this
77 9 subchapter to be made by director action.

77 10 2. If a corporation has no members, its incorporators,
77 11 until directors have been chosen, and thereafter its board of
77 12 directors, may adopt one or more amendments to the
77 13 corporation's articles subject to any approval required
77 14 pursuant to section 504.1031. The corporation shall provide
77 15 notice of any meeting at which an amendment is to be voted
77 16 upon. The notice shall be in accordance with section 504.823,
77 17 subsection 3. The notice must also state that the purpose, or
77 18 one of the purposes, of the meeting is to consider a proposed
77 19 amendment to the articles and contain or be accompanied by a
77 20 copy or summary of the amendment or state the general nature
77 21 of the amendment. The amendment must be approved by a
77 22 majority of the directors in office at the time the amendment
77 23 is adopted.

77 24 Sec. 114. NEW SECTION. 504.1003 AMENDMENT BY DIRECTORS
77 25 AND MEMBERS.

77 26 1. Unless this chapter, the articles or bylaws of a
77 27 corporation, the members acting pursuant to subsection 2, or
77 28 the board of directors acting pursuant to subsection 3,
77 29 require a greater vote or voting by class, or unless the
77 30 articles or bylaws impose other requirements, an amendment to
77 31 the corporation's articles must be approved by all of the
77 32 following to be adopted:

77 33 a. The board if the corporation is a public benefit or
77 34 religious corporation and the amendment does not relate to the
77 35 number of directors, the composition of the board, the term of
78 1 office of directors, or the method or way in which directors
78 2 are elected or selected.

78 3 b. Except as provided in section 504.1002, subsection 1,
78 4 by the members by two-thirds of the votes cast by the members
78 5 or a majority of the members' voting power that could be cast,
78 6 whichever is less.

78 7 c. In writing by any person or persons whose approval is
78 8 required by a provision of the articles authorized by section
78 9 504.1031.

78 10 2. The members may condition the adoption of an amendment
78 11 on receipt of a higher percentage of affirmative votes or on
78 12 any other basis.

78 13 3. If the board initiates an amendment to the articles or
78 14 board approval is required by subsection 1 to adopt an
78 15 amendment to the articles, the board may condition the
78 16 amendment's adoption on receipt of a higher percentage of
78 17 affirmative votes or any other basis.

78 18 4. If the board or the members seek to have the amendment
78 19 approved by the members at a membership meeting, the
78 20 corporation shall give notice to its members of the proposed
78 21 membership meeting in writing in accordance with section
78 22 504.705. The notice must state that the purpose, or one of
78 23 the purposes, of the meeting is to consider the proposed
78 24 amendment and contain or be accompanied by a copy or summary
78 25 of the amendment.

78 26 5. If the board or the members seek to have the amendment
78 27 approved by the members by written consent or written ballot,
78 28 the material soliciting the approval shall contain or be
78 29 accompanied by a copy or summary of the amendment.

78 30 Sec. 115. NEW SECTION. 504.1004 CLASS VOTING BY MEMBERS
78 31 ON AMENDMENTS.

78 32 1. Unless the articles or bylaws of the corporation
78 33 provide otherwise, the members of a class in a public benefit
78 34 corporation are entitled to vote as a class on a proposed
78 35 amendment to the articles if the amendment would change the

79 1 rights of that class as to voting in a manner different than
79 2 such amendment affects another class or members of another
79 3 class.
79 4 2. Unless the articles or bylaws of the corporation
79 5 provide otherwise, the members of a class in a mutual benefit
79 6 corporation are entitled to vote as a class on a proposed
79 7 amendment to the articles if the amendment would do any of the
79 8 following:
79 9 a. Affect the rights, privileges, preferences,
79 10 restrictions, or conditions of that class as to voting,
79 11 dissolution, redemption, or transfer of memberships in a
79 12 manner different than such amendment would affect another
79 13 class.
79 14 b. Change the rights, privileges, preferences,
79 15 restrictions, or conditions of that class as to voting,
79 16 dissolution, redemption, or transfer by changing the rights,
79 17 privileges, preferences, restrictions, or conditions of
79 18 another class.
79 19 c. Increase or decrease the number of memberships
79 20 authorized for that class.
79 21 d. Increase the number of memberships authorized for
79 22 another class.
79 23 e. Effect an exchange, reclassification, or termination of
79 24 the memberships of that class.
79 25 f. Authorize a new class of memberships.
79 26 3. The members of a class of a religious corporation are
79 27 entitled to vote as a class on a proposed amendment to the
79 28 articles only if a class vote is provided for in the articles
79 29 or bylaws.
79 30 4. Unless the articles or bylaws of the corporation
79 31 provide otherwise, if a class is to be divided into two or
79 32 more classes as a result of an amendment to the articles of a
79 33 public benefit or mutual benefit corporation, the amendment
79 34 must be approved by the members of each class that would be
79 35 created by the amendment.
80 1 5. Except as provided in the articles or bylaws of a
80 2 religious corporation, if a class vote is required to approve
80 3 an amendment to the articles of the corporation, the amendment
80 4 must be approved by the members of the class by two-thirds of
80 5 the votes cast by the class or a majority of the voting power
80 6 of the class, whichever is less.
80 7 Sec. 116. NEW SECTION. 504.1005 ARTICLES OF AMENDMENT.
80 8 A corporation amending its articles shall deliver to the
80 9 secretary of state articles of amendment setting forth:
80 10 1. The name of the corporation.
80 11 2. The text of each amendment adopted.
80 12 3. The date of each amendment's adoption.
80 13 4. If approval by members was not required, a statement to
80 14 that effect and a statement that the amendment was approved by
80 15 a sufficient vote of the board of directors or incorporators.
80 16 5. If approval by members was required, both of the
80 17 following:
80 18 a. The designation, number of memberships outstanding,
80 19 number of votes entitled to be cast by each class entitled to
80 20 vote separately on the amendment, and number of votes of each
80 21 class indisputably voting on the amendment.
80 22 b. Either the total number of votes cast for and against
80 23 the amendment by each class entitled to vote separately on the
80 24 amendment or the total number of undisputed votes cast for the
80 25 amendment by each class and a statement that the number of
80 26 votes cast for the amendment by each class was sufficient for
80 27 approval by that class.
80 28 6. If approval of the amendment by some person or persons
80 29 other than the members, the board, or the incorporators is
80 30 required pursuant to section 504.1031, a statement that the
80 31 approval was obtained.
80 32 Sec. 117. NEW SECTION. 504.1006 RESTATED ARTICLES OF
80 33 INCORPORATION.
80 34 1. A corporation's board of directors may restate the
80 35 corporation's articles of incorporation at any time with or
81 1 without approval by members or any other person.
81 2 2. The restatement may include one or more amendments to
81 3 the articles. If the restatement includes an amendment
81 4 requiring approval by the members or any other person, it must
81 5 be adopted as provided in section 504.1003.
81 6 3. If the restatement includes an amendment requiring
81 7 approval by members, the board must submit the restatement to
81 8 the members for their approval.
81 9 4. If the board seeks to have the restatement approved by
81 10 the members at a membership meeting, the corporation shall
81 11 notify each of its members of the proposed membership meeting

81 12 in writing in accordance with section 504.705. The notice
81 13 must also state that the purpose, or one of the purposes, of
81 14 the meeting is to consider the proposed restatement and must
81 15 contain or be accompanied by a copy or summary of the
81 16 restatement that identifies any amendments or other changes
81 17 the restatement would make in the articles.

81 18 5. If the board seeks to have the restatement approved by
81 19 the members by written ballot or written consent, the material
81 20 soliciting the approval shall contain or be accompanied by a
81 21 copy or summary of the restatement that identifies any
81 22 amendments or other changes the restatement would make in the
81 23 articles.

81 24 6. A restatement requiring approval by the members must be
81 25 approved by the same vote as an amendment to articles under
81 26 section 504.1003.

81 27 7. If the restatement includes an amendment requiring
81 28 approval pursuant to section 504.1031, the board must submit
81 29 the restatement for such approval.

81 30 8. A corporation restating its articles shall deliver to
81 31 the secretary of state articles of restatement setting forth
81 32 the name of the corporation and the text of the restated
81 33 articles of incorporation together with a certificate setting
81 34 forth all of the following:

81 35 a. Whether the restatement contains an amendment to the
82 1 articles requiring approval by the members or any other person
82 2 other than the board of directors and, if it does not, that
82 3 the board of directors adopted the restatement.

82 4 b. If the restatement contains an amendment to the
82 5 articles requiring approval by the members, the information
82 6 required by section 504.1005.

82 7 c. If the restatement contains an amendment to the
82 8 articles requiring approval by a person whose approval is
82 9 required pursuant to section 504.1031, a statement that such
82 10 approval was obtained.

82 11 9. Duly adopted restated articles of incorporation
82 12 supersede the original articles of incorporation and all
82 13 amendments to the original articles.

82 14 10. The secretary of state may certify restated articles
82 15 of incorporation as the articles of incorporation currently in
82 16 effect without including the certificate information required
82 17 by subsection 8.

82 18 Sec. 118. NEW SECTION. 504.1007 AMENDMENT PURSUANT TO
82 19 JUDICIAL REORGANIZATION.

82 20 1. A corporation's articles may be amended without board
82 21 approval or approval by the members or approval required
82 22 pursuant to section 504.1031 to carry out a plan of
82 23 reorganization ordered or decreed by a court of competent
82 24 jurisdiction under federal statute if the articles after
82 25 amendment contain only provisions required or permitted by
82 26 section 504.202.

82 27 2. An individual or individuals designated by the court
82 28 shall deliver to the secretary of state articles of amendment
82 29 setting forth all of the following:

82 30 a. The name of the corporation.

82 31 b. The text of each amendment approved by the court.

82 32 c. The date of the court's order or decree approving the
82 33 articles of amendment.

82 34 d. The title of the reorganization proceeding in which the
82 35 order or decree was entered.

83 1 e. A statement that the court had jurisdiction of the
83 2 proceeding under federal statute.

83 3 3. This section does not apply after entry of a final
83 4 decree in the reorganization proceeding even though the court
83 5 retains jurisdiction of the proceeding for limited purposes
83 6 unrelated to consummation of the reorganization plan.

83 7 Sec. 119. NEW SECTION. 504.1008 EFFECT OF AMENDMENT AND
83 8 RESTATEMENT.

83 9 An amendment to articles of incorporation does not affect a
83 10 cause of action existing against or in favor of the
83 11 corporation, a proceeding to which the corporation is a party,
83 12 any requirement or limitation imposed upon the corporation or
83 13 any property held by it by virtue of any trust upon which such
83 14 property is held by the corporation or the existing rights of
83 15 persons other than members of the corporation. An amendment
83 16 changing a corporation's name does not abate a proceeding
83 17 brought by or against the corporation in its former name.

83 18 PART 2

83 19 BYLAWS

83 20 Sec. 120. NEW SECTION. 504.1021 AMENDMENT BY DIRECTORS.

83 21 If a corporation has no members, its incorporators, until
83 22 directors have been chosen, and thereafter its board of

83 23 directors, may adopt one or more amendments to the
83 24 corporation's bylaws subject to any approval required pursuant
83 25 to section 504.1031. The corporation shall provide notice of
83 26 any meeting of directors at which an amendment is to be
83 27 approved. The notice must be given in accordance with section
83 28 504.823, subsection 3. The notice must also state that the
83 29 purpose, or one of the purposes, of the meeting is to consider
83 30 a proposed amendment to the bylaws and contain or be
83 31 accompanied by a copy or summary of the amendment or state the
83 32 general nature of the amendment. The amendment must be
83 33 approved by a majority of the directors in office at the time
83 34 the amendment is adopted.

83 35 Sec. 121. NEW SECTION. 504.1022 AMENDMENT BY DIRECTORS
84 1 AND MEMBERS.

84 2 1. Unless this chapter, the articles, bylaws, the members
84 3 acting pursuant to subsection 2, or the board of directors
84 4 acting pursuant to subsection 3, require a greater vote or
84 5 voting by class, or the articles or bylaws provide otherwise,
84 6 an amendment to a corporation's bylaws must be approved by all
84 7 of the following to be adopted:

84 8 a. By the board if the corporation is a public benefit or
84 9 religious corporation and the amendment does not relate to the
84 10 number of directors, the composition of the board, the term of
84 11 office of directors, or the method or way in which directors
84 12 are elected or selected.

84 13 b. By the members by two-thirds of the votes cast or a
84 14 majority of the voting power, whichever is less.

84 15 c. In writing by any person or persons whose approval is
84 16 required by a provision of the articles authorized by section
84 17 504.1031.

84 18 2. The members may condition the amendment's adoption on
84 19 its receipt of a higher percentage of affirmative votes or on
84 20 any other basis.

84 21 3. If the board initiates an amendment to the bylaws or
84 22 board approval is required by subsection 1 to adopt an
84 23 amendment to the bylaws, the board may condition the
84 24 amendment's adoption on receipt of a higher percentage of
84 25 affirmative votes or on any other basis.

84 26 4. If the board or the members seek to have the amendment
84 27 approved by the members at a membership meeting, the
84 28 corporation shall give notice to its members of the proposed
84 29 membership meeting in writing in accordance with section
84 30 504.705. The notice must also state that the purpose, or one
84 31 of the purposes, of the meeting is to consider the proposed
84 32 amendment and contain or be accompanied by a copy or summary
84 33 of the amendment.

84 34 5. If the board or the members seek to have the amendment
84 35 approved by the members by written consent or written ballot,
85 1 the material soliciting the approval shall contain or be
85 2 accompanied by a copy or summary of the amendment.

85 3 Sec. 122. NEW SECTION. 504.1023 CLASS VOTING BY MEMBERS
85 4 ON AMENDMENTS.

85 5 1. Unless the articles or bylaws of the corporation
85 6 provide otherwise, the members of a class in a public benefit
85 7 corporation are entitled to vote as a class on a proposed
85 8 amendment to the bylaws if the amendment would change the
85 9 rights of that class as to voting in a manner different than
85 10 such amendment affects another class or members of another
85 11 class.

85 12 2. Unless the articles or bylaws of the corporation
85 13 provide otherwise, members of a class in a mutual benefit
85 14 corporation are entitled to vote as a class on a proposed
85 15 amendment to the bylaws if the amendment would do any of the
85 16 following:

85 17 a. Affect the rights, privileges, preferences,
85 18 restrictions, or conditions of that class as to voting,
85 19 dissolution, redemption, or transfer of memberships in a
85 20 manner different than such amendment would affect another
85 21 class.

85 22 b. Change the rights, privileges, preferences,
85 23 restrictions, or conditions of that class as to voting,
85 24 dissolution, redemption, or transfer by changing the rights,
85 25 privileges, preferences, restrictions, or conditions of
85 26 another class.

85 27 c. Increase or decrease the number of memberships
85 28 authorized for that class.

85 29 d. Increase the number of memberships authorized for
85 30 another class.

85 31 e. Effect an exchange, reclassification, or termination of
85 32 all or part of the memberships of that class.

85 33 f. Authorize a new class of memberships.

85 34 3. The members of a class of a religious corporation are
85 35 entitled to vote as a class on a proposed amendment to the
86 1 bylaws only if a class vote is provided for in the articles or
86 2 bylaws.

86 3 4. Unless the articles or bylaws of the corporation
86 4 provide otherwise, if a class is to be divided into two or
86 5 more classes as a result of an amendment to the bylaws, the
86 6 amendment must be approved by the members of each class that
86 7 would be created by the amendment.

86 8 5. Unless the articles or bylaws of the corporation
86 9 provide otherwise, if a class vote is required to approve an
86 10 amendment to the bylaws, the amendment must be approved by the
86 11 members of the class by two-thirds of the votes cast by the
86 12 class or a majority of the voting power of the class,
86 13 whichever is less.

86 14 PART 3

86 15 ARTICLES OF INCORPORATION AND BYLAWS

86 16 Sec. 123. NEW SECTION. 504.1031 APPROVAL BY THIRD
86 17 PERSONS.

86 18 The articles of a corporation may require that an amendment
86 19 to the articles or bylaws be approved in writing by a
86 20 specified person or persons other than the board. Such a
86 21 provision in the articles may only be amended with the
86 22 approval in writing of the person or persons specified in the
86 23 provision.

86 24 Sec. 124. NEW SECTION. 504.1032 AMENDMENT TERMINATING
86 25 MEMBERS OR REDEEMING OR CANCELING MEMBERSHIPS.

86 26 1. Unless the articles or bylaws provide otherwise, an
86 27 amendment to the articles or bylaws of a public benefit or
86 28 mutual benefit corporation which would terminate all members
86 29 or any class of members or redeem or cancel all memberships or
86 30 any class of memberships must meet the requirements of this
86 31 chapter and this section.

86 32 2. Before adopting a resolution proposing such an
86 33 amendment, the board of a mutual benefit corporation shall
86 34 give notice of the general nature of the amendment to the
86 35 members.

87 1 3. After adopting a resolution proposing such an
87 2 amendment, the notice to members proposing such amendment
87 3 shall include one statement of up to five hundred words
87 4 opposing the proposed amendment, if such statement is
87 5 submitted by any five members or members having three percent
87 6 or more of the voting power, whichever is less, not later than
87 7 twenty days after the board has voted to submit such amendment
87 8 to the members for their approval. In public benefit
87 9 corporations, the production and mailing costs of the
87 10 statement opposing the proposed amendment shall be paid by the
87 11 requesting members. In mutual benefit corporations, the
87 12 production and mailing costs of the statement opposing the
87 13 proposed amendment shall be paid by the corporation.

87 14 4. Any such amendment shall be approved by the members by
87 15 two-thirds of the votes cast by each class.

87 16 5. The provisions of section 504.622 shall not apply to
87 17 any amendment meeting the requirements of this chapter and
87 18 this section.

87 19 SUBCHAPTER XI

87 20 MERGER

87 21 Sec. 125. NEW SECTION. 504.1101 APPROVAL OF PLAN OF
87 22 MERGER.

87 23 1. Subject to the limitations set forth in section
87 24 504.1102, one or more nonprofit corporations may merge with or
87 25 into any one or more corporations or nonprofit corporations or
87 26 limited liability companies, if the plan of merger is approved
87 27 as provided in section 504.1103.

87 28 2. The plan of merger shall set forth all of the
87 29 following:

87 30 a. The name of each corporation or limited liability
87 31 company planning to merge and the name of the surviving
87 32 corporation into which each plans to merge.

87 33 b. The terms and conditions of the planned merger.

87 34 c. The manner and basis, if any, of converting the
87 35 memberships of each public benefit or religious corporation
88 1 into memberships of the surviving corporation or limited
88 2 liability company.

88 3 d. If the merger involves a mutual benefit corporation,
88 4 the manner and basis, if any, of converting memberships of
88 5 each merging corporation into memberships, obligations, or
88 6 securities of the surviving or any other corporation or
88 7 limited liability company or into cash or other property in
88 8 whole or in part.

88 9 3. The plan of merger may set forth any of the following:

88 10 a. Any amendments to the articles of incorporation or
88 11 bylaws of the surviving corporation or limited liability
88 12 company to be effected by the planned merger.
88 13 b. Other provisions relating to the planned merger.
88 14 Sec. 126. NEW SECTION. 504.1102 LIMITATIONS ON MERGERS
88 15 BY PUBLIC BENEFIT OR RELIGIOUS CORPORATIONS.
88 16 1. Without the prior approval of the district court, a
88 17 public benefit or religious corporation may merge only with
88 18 one of the following:
88 19 a. A public benefit or religious corporation.
88 20 b. A foreign corporation which would qualify under this
88 21 chapter as a public benefit or religious corporation.
88 22 c. A wholly owned foreign or domestic business or mutual
88 23 benefit corporation, provided the public benefit or religious
88 24 corporation is the surviving corporation and continues to be a
88 25 public benefit or religious corporation after the merger.
88 26 d. A business or mutual benefit corporation or limited
88 27 liability company, provided that all of the following apply:
88 28 (1) On or prior to the effective date of the merger,
88 29 assets with a value equal to the greater of the fair market
88 30 value of the net tangible and intangible assets, including
88 31 goodwill, of the public benefit or religious corporation or
88 32 the fair market value of the public benefit or religious
88 33 corporation if it were to be operated as a business concern
88 34 are transferred or conveyed to one or more persons who would
88 35 have received its assets under section 504.1406, subsection 1,
89 1 paragraphs "e" and "f", had it dissolved.
89 2 (2) The business or mutual benefit corporation or limited
89 3 liability company shall return, transfer, or convey any assets
89 4 held by it upon condition requiring return, transfer, or
89 5 conveyance, which condition occurs by reason of the merger, in
89 6 accordance with such condition.
89 7 (3) The merger is approved by a majority of directors of
89 8 the public benefit or religious corporation who are not and
89 9 will not become members or shareholders in or officers,
89 10 employees, agents, or consultants of the surviving
89 11 corporation.
89 12 2. Without the prior approval of the district court in a
89 13 proceeding in which a guardian ad litem has been appointed to
89 14 represent the interests of the corporation, a member of a
89 15 public benefit or religious corporation shall not receive or
89 16 keep anything as a result of a merger other than a membership
89 17 in the surviving public benefit or religious corporation. The
89 18 court shall approve the transaction if it is in the public
89 19 interest.
89 20 Sec. 127. NEW SECTION. 504.1103 ACTION ON PLAN BY BOARD,
89 21 MEMBERS, AND THIRD PERSONS.
89 22 1. Unless this chapter, the articles, bylaws, or the board
89 23 of directors or members acting pursuant to subsection 3
89 24 require a greater vote or voting by class, or the articles or
89 25 bylaws impose other requirements, a plan of merger for a
89 26 corporation must be approved by all of the following to be
89 27 adopted:
89 28 a. The board.
89 29 b. The members, if any, by two-thirds of the votes cast or
89 30 a majority of the voting power, whichever is less.
89 31 c. In writing by any person or persons whose approval is
89 32 required by a provision of the articles authorized by section
89 33 504.1031 for an amendment to the articles or bylaws.
89 34 2. If the corporation does not have members, the merger
89 35 must be approved by a majority of the directors in office at
90 1 the time the merger is approved. In addition, the corporation
90 2 shall provide notice of any directors' meeting at which such
90 3 approval is to be obtained in accordance with section 504.823,
90 4 subsection 3. The notice must also state that the purpose, or
90 5 one of the purposes, of the meeting is to consider the
90 6 proposed merger.
90 7 3. The board may condition its submission of the proposed
90 8 merger, and the members may condition their approval of the
90 9 merger, on receipt of a higher percentage of affirmative votes
90 10 or on any other basis.
90 11 4. If the board seeks to have the plan approved by the
90 12 members at a membership meeting, the corporation shall give
90 13 notice to its members of the proposed membership meeting in
90 14 accordance with section 504.705. The notice must also state
90 15 that the purpose, or one of the purposes, of the meeting is to
90 16 consider the plan of merger and contain or be accompanied by a
90 17 copy or summary of the plan. The copy or summary of the plan
90 18 for members of the surviving corporation shall include any
90 19 provision that, if contained in a proposed amendment to the
90 20 articles of incorporation or bylaws, would entitle members to

90 21 vote on the provision. The copy or summary of the plan for
90 22 members of the disappearing corporation shall include a copy
90 23 or summary of the articles and bylaws which will be in effect
90 24 immediately after the merger takes effect.

90 25 5. If the board seeks to have the plan approved by the
90 26 members by written consent or written ballot, the material
90 27 soliciting the approval shall contain or be accompanied by a
90 28 copy or summary of the plan. The copy or summary of the plan
90 29 for members of the surviving corporation shall include any
90 30 provision that, if contained in a proposed amendment to the
90 31 articles of incorporation or bylaws, would entitle members to
90 32 vote on the provision. The copy or summary of the plan for
90 33 members of the disappearing corporation shall include a copy
90 34 or summary of the articles and bylaws which will be in effect
90 35 immediately after the merger takes effect.

91 1 6. Voting by a class of members is required on a plan of
91 2 merger if the plan contains a provision that, if contained in
91 3 a proposed amendment to articles of incorporation or bylaws,
91 4 would entitle the class of members to vote as a class on the
91 5 proposed amendment under section 504.1004 or 504.1023. The
91 6 plan must be approved by a class of members by two-thirds of
91 7 the votes cast by the class or a majority of the voting power
91 8 of the class, whichever is less.

91 9 7. After a merger is adopted, and at any time before
91 10 articles of merger are filed, the planned merger may be
91 11 abandoned subject to any contractual rights without further
91 12 action by members or other persons who approved the plan in
91 13 accordance with the procedure set forth in the plan of merger
91 14 or, if none is set forth, in the manner determined by the
91 15 board of directors.

91 16 Sec. 128. NEW SECTION. 504.1104 ARTICLES OF MERGER.

91 17 After a plan of merger is approved by the board of
91 18 directors, and if required by section 504.1103, by the members
91 19 and any other persons, the surviving or acquiring corporation
91 20 shall deliver to the secretary of state articles of merger
91 21 setting forth all of the following, as applicable:

91 22 1. The plan of merger.

91 23 2. If approval of members was not required, a statement to
91 24 that effect and a statement that the plan was approved by a
91 25 sufficient vote of the board of directors.

91 26 3. If approval by members was required, both of the
91 27 following:

91 28 a. The designation, number of memberships outstanding,
91 29 number of votes entitled to be cast by each class entitled to
91 30 vote separately on the plan, and number of votes of each class
91 31 indisputably voting on the plan.

91 32 b. Either the total number of votes cast for and against
91 33 the plan by each class entitled to vote separately on the plan
91 34 or the total number of undisputed votes cast for the plan by
91 35 each class and a statement that the number of votes cast for
92 1 the plan by each class was sufficient for approval by that
92 2 class.

92 3 4. If approval of the plan by some person or persons other
92 4 than the members of the board is required pursuant to section
92 5 504.1103, subsection 1, paragraph "c", a statement that the
92 6 approval was obtained.

92 7 Sec. 129. NEW SECTION. 504.1105 EFFECT OF MERGER.

92 8 When a merger takes effect, all of the following occur:

92 9 1. Every other corporation party to the merger merges into
92 10 the surviving corporation and the separate existence of every
92 11 corporation except the surviving corporation ceases.

92 12 2. The title to all real estate and other property owned
92 13 by each corporation party to the merger is vested in the
92 14 surviving corporation without reversion or impairment subject
92 15 to any and all conditions to which the property was subject
92 16 prior to the merger.

92 17 3. The surviving corporation has all the liabilities and
92 18 obligations of each corporation party to the merger.

92 19 4. A proceeding pending against any corporation party to
92 20 the merger may be continued as if the merger did not occur or
92 21 the surviving corporation may be substituted in the proceeding
92 22 for the corporation whose existence ceased.

92 23 5. The articles of incorporation and bylaws of the
92 24 surviving corporation are amended to the extent provided in
92 25 the plan of merger.

92 26 Sec. 130. NEW SECTION. 504.1106 MERGER WITH FOREIGN
92 27 CORPORATION.

92 28 1. Except as provided in section 504.1102, one or more
92 29 foreign business or nonprofit corporations may merge with one
92 30 or more domestic nonprofit corporations if all of the
92 31 following conditions are met:

92 32 a. The merger is permitted by the law of the state or
92 33 country under whose law each foreign corporation is
92 34 incorporated and each foreign corporation complies with that
92 35 law in effecting the merger.

93 1 b. The foreign corporation complies with section 504.1104
93 2 if it is the surviving corporation of the merger.

93 3 c. Each domestic nonprofit corporation complies with the
93 4 applicable provisions of sections 504.1101 through 504.1103
93 5 and, if it is the surviving corporation of the merger, with
93 6 section 504.1104.

93 7 2. Upon the merger taking effect, the surviving foreign
93 8 business or nonprofit corporation is deemed to have
93 9 irrevocably appointed the secretary of state as its agent for
93 10 service of process in any proceeding brought against it.

93 11 Sec. 131. NEW SECTION. 504.1107 BEQUESTS, DEVISES, AND
93 12 GIFTS.

93 13 Any bequest, devise, gift, grant, or promise contained in a
93 14 will or other instrument of donation, subscription, or
93 15 conveyance, that is made to a constituent corporation and
93 16 which takes effect or remains payable after the merger, inures
93 17 to the surviving corporation unless the will or other
93 18 instrument otherwise specifically provides.

93 19 Sec. 132. NEW SECTION. 504.1108 CONVERSION.

93 20 A corporation organized under this chapter that is an
93 21 insurance company may voluntarily elect to be organized as a
93 22 mutual insurance company under chapter 490 or 491 pursuant to
93 23 the procedures set forth in section 514.23.

93 24 SUBCHAPTER XII
93 25 SALE OF ASSETS

93 26 Sec. 133. NEW SECTION. 504.1201 SALE OF ASSETS IN
93 27 REGULAR COURSE OF ACTIVITIES AND MORTGAGE OF ASSETS.

93 28 1. A corporation may on the terms and conditions and for
93 29 the consideration determined by the board of directors do
93 30 either of the following:

93 31 a. Sell, lease, exchange, or otherwise dispose of all, or
93 32 substantially all, of its property in the usual and regular
93 33 course of its activities.

93 34 b. Mortgage, pledge, dedicate to the repayment of
93 35 indebtedness, whether with or without recourse, or otherwise
94 1 encumber any or all of its property whether or not in the
94 2 usual and regular course of its activities.

94 3 2. Unless the articles require it, approval of the members
94 4 or any other persons of a transaction described in subsection
94 5 1 is not required.

94 6 Sec. 134. NEW SECTION. 504.1202 SALE OF ASSETS OTHER
94 7 THAN IN REGULAR COURSE OF ACTIVITIES.

94 8 1. A corporation may sell, lease, exchange, or otherwise
94 9 dispose of all, or substantially all, of its property, with or
94 10 without the goodwill, other than in the usual and regular
94 11 course of its activities on the terms and conditions and for
94 12 the consideration determined by the corporation's board if the
94 13 proposed transaction is authorized by subsection 2.

94 14 2. Unless this chapter, the articles, bylaws, or the board
94 15 of directors or members acting pursuant to subsection 4
94 16 require a greater vote or voting by a class or the articles or
94 17 bylaws impose other requirements, the proposed transaction to
94 18 be authorized must be approved by all of the following:

94 19 a. The board.

94 20 b. The members by two-thirds of the votes cast or a
94 21 majority of the voting power, whichever is less.

94 22 c. In writing by any person or persons whose approval is
94 23 required by a provision of the articles authorized by section
94 24 504.1031 for an amendment to the articles or bylaws.

94 25 3. If the corporation does not have members, the
94 26 transaction must be approved by a vote of a majority of the
94 27 directors in office at the time the transaction is approved.
94 28 In addition, the corporation shall provide notice of any
94 29 directors' meeting at which such approval is to be obtained in
94 30 accordance with section 504.823, subsection 3. The notice
94 31 shall also state that the purpose, or one of the purposes, of
94 32 the meeting is to consider the sale, lease, exchange, or other
94 33 disposition of all, or substantially all, of the property or
94 34 assets of the corporation and contain or be accompanied by a
94 35 copy or summary of a description of the transaction.

95 1 4. The board may condition its submission of the proposed
95 2 transaction, and the members may condition their approval of
95 3 the transaction, on receipt of a higher percentage of
95 4 affirmative votes or on any other basis.

95 5 5. If the corporation seeks to have the transaction
95 6 approved by the members at a membership meeting, the
95 7 corporation shall give notice to its members of the proposed

95 8 membership meeting in accordance with section 504.705. The
95 9 notice must also state that the purpose, or one of the
95 10 purposes, of the meeting is to consider the sale, lease,
95 11 exchange, or other disposition of all, or substantially all,
95 12 of the property or assets of the corporation and contain or be
95 13 accompanied by a copy or summary of a description of the
95 14 transaction.

95 15 6. If the board is required to have the transaction
95 16 approved by the members by written consent or written ballot,
95 17 the material soliciting the approval shall contain or be
95 18 accompanied by a copy or summary of a description of the
95 19 transaction.

95 20 7. After a sale, lease, exchange, or other disposition of
95 21 property is authorized, the transaction may be abandoned,
95 22 subject to any contractual rights, without further action by
95 23 the members or any other person who approved the transaction
95 24 in accordance with the procedure set forth in the resolution
95 25 proposing the transaction or, if none is set forth, in the
95 26 manner determined by the board of directors.

95 27 SUBCHAPTER XIII
95 28 DISTRIBUTIONS

95 29 Sec. 135. NEW SECTION. 504.1301 PROHIBITED
95 30 DISTRIBUTIONS.

95 31 Except as authorized by section 504.1302, a corporation
95 32 shall not make any distributions.

95 33 Sec. 136. NEW SECTION. 504.1302 AUTHORIZED
95 34 DISTRIBUTIONS.

95 35 1. A mutual benefit corporation may purchase its
96 1 memberships if after the purchase is completed, both of the
96 2 following apply:

96 3 a. The corporation will be able to pay its debts as they
96 4 become due in the usual course of its activities.

96 5 b. The corporation's total assets will at least equal the
96 6 sum of its total liabilities.

96 7 2. Corporations may make distributions upon dissolution in
96 8 conformity with subchapter 14.

96 9 SUBCHAPTER XIV
96 10 DISSOLUTION

96 11 PART 1

96 12 VOLUNTARY DISSOLUTION

96 13 Sec. 137. NEW SECTION. 504.1401 DISSOLUTION BY
96 14 INCORPORATORS OR DIRECTORS AND THIRD PERSONS.

96 15 1. A majority of the incorporators of a corporation that
96 16 has no directors and no members or a majority of the directors
96 17 of a corporation that has no members may, subject to any
96 18 approval required by the articles or bylaws, dissolve the
96 19 corporation by delivering articles of dissolution to the
96 20 secretary of state.

96 21 2. The corporation shall give notice of any meeting at
96 22 which dissolution will be approved. The notice must be in
96 23 accordance with section 504.823, subsection 3. The notice
96 24 must also state that the purpose, or one of the purposes, of
96 25 the meeting is to consider dissolution of the corporation.

96 26 3. The incorporators or directors in approving dissolution
96 27 shall adopt a plan of dissolution indicating to whom the
96 28 assets owned or held by the corporation will be distributed
96 29 after all creditors have been paid.

96 30 Sec. 138. NEW SECTION. 504.1402 DISSOLUTION BY
96 31 DIRECTORS, MEMBERS, AND THIRD PERSONS.

96 32 1. Unless this chapter, the articles, bylaws, or the board
96 33 of directors or members acting pursuant to subsection 3
96 34 require a greater vote or voting by class or the articles or
96 35 bylaws impose other requirements, dissolution is authorized if
97 1 it is approved by all of the following:

97 2 a. The board.

97 3 b. The members, if any, by two-thirds of the votes cast or
97 4 a majority of the voting power, whichever is less.

97 5 c. In writing by any person or persons whose approval is
97 6 required by a provision of the articles authorized by section
97 7 504.1031 for an amendment to the articles or bylaws.

97 8 2. If the corporation does not have members, dissolution
97 9 must be approved by a vote of a majority of the directors in
97 10 office at the time the transaction is approved. In addition,
97 11 the corporation shall provide notice of any directors' meeting
97 12 at which such approval is to be obtained in accordance with
97 13 section 504.823, subsection 3. The notice must also state
97 14 that the purpose, or one of the purposes, of the meeting is to
97 15 consider dissolution of the corporation and contain or be
97 16 accompanied by a copy or summary of the plan of dissolution.

97 17 3. The board may condition its submission of the proposed
97 18 dissolution, and the members may condition their approval of

97 19 the dissolution, on receipt of a higher percentage of
97 20 affirmative votes or on any other basis.

97 21 4. If the board seeks to have dissolution approved by the
97 22 members at a membership meeting, the corporation shall give
97 23 notice to its members of the proposed membership meeting in
97 24 accordance with section 504.705. The notice must also state
97 25 that the purpose, or one of the purposes, of the meeting is to
97 26 consider dissolving the corporation and must contain or be
97 27 accompanied by a copy or summary of the plan of dissolution.

97 28 5. If the board seeks to have the dissolution approved by
97 29 the members by written consent or written ballot, the material
97 30 soliciting the approval shall contain or be accompanied by a
97 31 copy or summary of the plan of dissolution.

97 32 6. The plan of dissolution shall indicate to whom the
97 33 assets owned or held by the corporation will be distributed
97 34 after all creditors have been paid.

97 35 Sec. 139. NEW SECTION. 504.1404 ARTICLES OF DISSOLUTION.

98 1 1. At any time after dissolution is authorized, a
98 2 corporation may dissolve by delivering articles of dissolution
98 3 to the secretary of state setting forth all of the following:

98 4 a. The name of the corporation.

98 5 b. The date dissolution was authorized.

98 6 c. A statement that dissolution was approved by a
98 7 sufficient vote of the board.

98 8 d. If approval of members was not required, a statement to
98 9 that effect and a statement that dissolution was approved by a
98 10 sufficient vote of the board of directors or incorporators.

98 11 e. If approval by members was required, both of the
98 12 following:

98 13 (1) The designation, number of memberships outstanding,
98 14 number of votes entitled to be cast by each class entitled to
98 15 vote separately on dissolution, and number of votes of each
98 16 class indisputably voting on dissolution.

98 17 (2) Either the total number of votes cast for and against
98 18 dissolution by each class entitled to vote separately on
98 19 dissolution or the total number of undisputed votes cast for
98 20 dissolution by each class and a statement that the number cast
98 21 for dissolution by each class was sufficient for approval by
98 22 that class.

98 23 f. If approval of dissolution by some person or persons
98 24 other than the members, the board, or the incorporators is
98 25 required pursuant to section 504.1402, subsection 1, paragraph
98 26 "c", a statement that the approval was obtained.

98 27 2. A corporation is dissolved upon the effective date of
98 28 its articles of dissolution.

98 29 Sec. 140. NEW SECTION. 504.1405 REVOCATION OF
98 30 DISSOLUTION.

98 31 1. A corporation may revoke its dissolution within one
98 32 hundred twenty days of its effective date.

98 33 2. Revocation of dissolution must be authorized in the
98 34 same manner as the dissolution was authorized unless that
98 35 authorization permitted revocation by action of the board of
99 1 directors alone, in which event the board of directors may
99 2 revoke the dissolution without action by the members or any
99 3 other person.

99 4 3. After the revocation of dissolution is authorized, the
99 5 corporation may revoke the dissolution by delivering to the
99 6 secretary of state for filing, articles of revocation of
99 7 dissolution, together with a copy of its articles of
99 8 dissolution, that set forth all of the following:

99 9 a. The name of the corporation.

99 10 b. The effective date of the dissolution that was revoked.

99 11 c. The date that the revocation of dissolution was
99 12 authorized.

99 13 d. If the corporation's board of directors or
99 14 incorporators revoked the dissolution, a statement to that
99 15 effect.

99 16 e. If the corporation's board of directors revoked a
99 17 dissolution authorized by the members alone or in conjunction
99 18 with another person or persons, a statement that revocation
99 19 was permitted by action of the board of directors alone
99 20 pursuant to that authorization.

99 21 f. If member or third person action was required to revoke
99 22 the dissolution, the information required by section 504.1404,
99 23 subsection 1, paragraphs "e" and "f".

99 24 4. Revocation of dissolution is effective upon the
99 25 effective date of the articles of revocation of dissolution.

99 26 5. When the revocation of dissolution is effective, it
99 27 relates back to and takes effect as of the effective date of
99 28 the dissolution and the corporation resumes carrying on its
99 29 activities as if dissolution had never occurred.

99 30 Sec. 141. NEW SECTION. 504.1406 EFFECT OF DISSOLUTION.

99 31 1. A dissolved corporation continues its corporate
99 32 existence but shall not carry on any activities except those
99 33 appropriate to wind up and liquidate its affairs, including
99 34 all of the following:

99 35 a. Preserving and protecting its assets and minimizing its
100 1 liabilities.

100 2 b. Discharging or making provision for discharging its
100 3 liabilities and obligations.

100 4 c. Disposing of its properties that will not be
100 5 distributed in kind.

100 6 d. Returning, transferring, or conveying assets held by
100 7 the corporation upon a condition requiring return, transfer,
100 8 or conveyance, which condition occurs by reason of the
100 9 dissolution, in accordance with such condition.

100 10 e. Transferring, subject to any contractual or legal
100 11 requirements, its assets as provided in or authorized by its
100 12 articles of incorporation or bylaws.

100 13 f. If the corporation is a public benefit or religious
100 14 corporation, and a provision has not been made in its articles
100 15 or bylaws for distribution of assets on dissolution,
100 16 transferring, subject to any contractual or legal requirement,
100 17 its assets to one or more persons described in section
100 18 501(c)(3) of the Internal Revenue Code, or if the dissolved
100 19 corporation is not described in section 501(c)(3) of the
100 20 Internal Revenue Code, to one or more public benefit or
100 21 religious corporations.

100 22 g. If the corporation is a mutual benefit corporation and
100 23 a provision has not been made in its articles or bylaws for
100 24 distribution of assets on dissolution, transferring its assets
100 25 to its members or, if it has no members, those persons whom
100 26 the corporation holds itself out as benefiting or serving.

100 27 h. Doing every other act necessary to wind up and
100 28 liquidate its assets and affairs.

100 29 2. Dissolution of a corporation does not do any of the
100 30 following:

100 31 a. Transfer title to the corporation's property.

100 32 b. Subject its directors or officers to standards of
100 33 conduct different from those prescribed in subchapter 8.

100 34 c. Change quorum or voting requirements for its board or
100 35 members; change provisions for selection, resignation, or
101 1 removal of its directors or officers or both; or change
101 2 provisions for amending its bylaws.

101 3 d. Prevent commencement of a proceeding by or against the
101 4 corporation in its corporate name.

101 5 e. Abate or suspend a proceeding pending by or against the
101 6 corporation on the effective date of dissolution.

101 7 f. Terminate the authority of the registered agent.

101 8 Sec. 142. NEW SECTION. 504.1407 KNOWN CLAIMS AGAINST
101 9 DISSOLVED CORPORATION.

101 10 1. A dissolved corporation may dispose of the known claims
101 11 against it by following the procedure described in this
101 12 section.

101 13 2. The dissolved corporation shall notify its known
101 14 claimants in writing of the dissolution at any time after the
101 15 effective date of the dissolution. The written notice must do
101 16 all of the following:

101 17 a. Describe information that must be included in a claim.

101 18 b. Provide a mailing address where a claim may be sent.

101 19 c. State the deadline, which shall not be fewer than one
101 20 hundred twenty days from the effective date of the written
101 21 notice, by which the dissolved corporation must receive the
101 22 claim.

101 23 d. State that the claim will be barred if not received by
101 24 the deadline.

101 25 3. A claim against the dissolved corporation is barred if
101 26 either of the following occurs:

101 27 a. A claimant who was given written notice under
101 28 subsection 2 does not deliver the claim to the dissolved
101 29 corporation by the deadline.

101 30 b. A claimant whose claim was rejected by the dissolved
101 31 corporation does not commence a proceeding to enforce the
101 32 claim within ninety days from the effective date of the
101 33 rejection notice.

101 34 4. For purposes of this section, "claim" does not include
101 35 a contingent liability or a claim based on an event occurring
102 1 after the effective date of dissolution.

102 2 Sec. 143. NEW SECTION. 504.1408 UNKNOWN CLAIMS AGAINST
102 3 DISSOLVED CORPORATION.

102 4 1. A dissolved corporation may also publish notice of its
102 5 dissolution and request that persons with claims against the

102 6 corporation present them in accordance with the notice.

102 7 2. The notice must do all of the following:

102 8 a. Be published one time in a newspaper of general
102 9 circulation in the county where the dissolved corporation's
102 10 principal office is located, or, if none is located in this
102 11 state, where its registered office is or was last located.

102 12 b. Describe the information that must be included in a
102 13 claim and provide a mailing address where the claim may be
102 14 sent.

102 15 c. State that a claim against the corporation will be
102 16 barred unless a proceeding to enforce the claim is commenced
102 17 within five years after publication of the notice.

102 18 3. If the dissolved corporation publishes a newspaper
102 19 notice in accordance with subsection 2, the claim of each of
102 20 the following claimants is barred unless the claimant
102 21 commences a proceeding to enforce the claim against the
102 22 dissolved corporation within five years after the publication
102 23 date of the newspaper notice:

102 24 a. A claimant who did not receive written notice under
102 25 section 504.1407.

102 26 b. A claimant whose claim was timely sent to the dissolved
102 27 corporation but not acted on.

102 28 c. A claimant whose claim is contingent or based on an
102 29 event occurring after the effective date of dissolution.

102 30 4. A claim may be enforced under this section to the
102 31 following extent, as applicable:

102 32 a. Against the dissolved corporation, to the extent of its
102 33 undistributed assets.

102 34 b. If the assets have been distributed in liquidation,
102 35 against any person, other than a creditor of the corporation,
103 1 to whom the corporation distributed its property to the extent
103 2 of the distributee's pro rata share of the claim or the
103 3 corporate assets distributed to such person in liquidation,
103 4 whichever is less, but the distributee's total liability for
103 5 all claims under this section shall not exceed the total
103 6 amount of assets distributed to the distributee.

103 7 PART 2

103 8 ADMINISTRATIVE DISSOLUTION

103 9 Sec. 144. NEW SECTION. 504.1421 GROUNDS FOR
103 10 ADMINISTRATIVE DISSOLUTION.

103 11 The secretary of state may commence a proceeding under
103 12 section 504.1422 to administratively dissolve a corporation if
103 13 any of the following occurs:

103 14 1. The corporation does not deliver its biennial report to
103 15 the secretary of state, in a form that meets the requirements
103 16 of section 504.1613, within sixty days after the report is
103 17 due.

103 18 2. The corporation is without a registered agent or
103 19 registered office in this state for sixty days or more.

103 20 3. The corporation does not notify the secretary of state
103 21 within sixty days that its registered agent or registered
103 22 office has been changed, that its registered agent has
103 23 resigned, or that its registered office has been discontinued.

103 24 4. The corporation's period of duration, if any, stated in
103 25 its articles of incorporation expires.

103 26 Sec. 145. NEW SECTION. 504.1422 PROCEDURE FOR AND EFFECT
103 27 OF ADMINISTRATIVE DISSOLUTION.

103 28 1. Upon determining that one or more grounds exist under
103 29 section 504.1421 for dissolving a corporation, the secretary
103 30 of state shall serve the corporation with written notice of
103 31 that determination under section 504.504.

103 32 2. If the corporation does not correct each ground for
103 33 dissolution or demonstrate to the reasonable satisfaction of
103 34 the secretary of state that each ground determined by the
103 35 secretary of state does not exist within at least sixty days
104 1 after service of notice is perfected under section 504.504,
104 2 the secretary of state may administratively dissolve the
104 3 corporation by signing a certificate of dissolution that
104 4 recites the ground or grounds for dissolution and its
104 5 effective date. The secretary of state shall file the
104 6 original of the certificate of dissolution and serve a copy on
104 7 the corporation under section 504.504.

104 8 3. A corporation that is administratively dissolved
104 9 continues its corporate existence but may not carry on any
104 10 activities except those necessary to wind up and liquidate its
104 11 affairs pursuant to section 504.1406 and notify its claimants
104 12 pursuant to sections 504.1407 and 504.1408.

104 13 4. The administrative dissolution of a corporation does
104 14 not terminate the authority of its registered agent.

104 15 5. The secretary of state's administrative dissolution of
104 16 a corporation pursuant to this section appoints the secretary

104 17 of state as the corporation's agent for service of process in
104 18 any proceeding based on a cause of action which arose during
104 19 the time the corporation was authorized to transact business
104 20 in this state. Service of process on the secretary of state
104 21 under this subsection is service on the corporation. Upon
104 22 receipt of process, the secretary of state shall serve a copy
104 23 of the process on the corporation as provided in section
104 24 504.504. This subsection does not preclude service on the
104 25 corporation's registered agent, if any.

104 26 Sec. 146. NEW SECTION. 504.1423 REINSTATEMENT FOLLOWING
104 27 ADMINISTRATIVE DISSOLUTION.

104 28 1. A corporation administratively dissolved under section
104 29 504.1422 may apply to the secretary of state for reinstatement
104 30 within two years after the effective date of dissolution. The
104 31 application must state all of the following:

104 32 a. The name of the corporation and the effective date of
104 33 its administrative dissolution.

104 34 b. That the ground or grounds for dissolution either did
104 35 not exist or have been eliminated.

105 1 c. That the corporation's name satisfies the requirements
105 2 of section 504.401.

105 3 d. The federal tax identification number of the
105 4 corporation.

105 5 2. a. The secretary of state shall refer the federal tax
105 6 identification number contained in the application for
105 7 reinstatement to the department of revenue and finance. The
105 8 department of revenue and finance shall report to the
105 9 secretary of state the tax status of the corporation. If the
105 10 department reports to the secretary of state that a filing
105 11 delinquency or liability exists against the corporation, the
105 12 secretary of state shall not cancel the certificate of
105 13 dissolution until the filing delinquency or liability is
105 14 satisfied.

105 15 b. If the secretary of state determines that the
105 16 application contains the information required by subsection 1,
105 17 that a delinquency or liability reported pursuant to paragraph
105 18 "a" has been satisfied, and that all of the application
105 19 information is correct, the secretary of state shall cancel
105 20 the certificate of dissolution and prepare a certificate of
105 21 reinstatement reciting that determination and the effective
105 22 date of reinstatement, file the original of the certificate,
105 23 and serve a copy on the corporation under section 504.504. If
105 24 the corporate name in subsection 1, paragraph "c", is
105 25 different from the corporate name in subsection 1, paragraph
105 26 "a", the certificate of reinstatement shall constitute an
105 27 amendment to the articles of incorporation insofar as it
105 28 pertains to the corporate name.

105 29 3. When reinstatement is effective, it relates back to and
105 30 takes effect as of the effective date of the administrative
105 31 dissolution and the corporation shall resume carrying on its
105 32 activities as if the administrative dissolution had never
105 33 occurred.

105 34 Sec. 147. NEW SECTION. 504.1424 APPEAL FROM DENIAL OF
105 35 REINSTATEMENT.

106 1 1. The secretary of state, upon denying a corporation's
106 2 application for reinstatement following administrative
106 3 dissolution, shall serve the corporation under section 504.504
106 4 with a written notice that explains the reason or reasons for
106 5 denial.

106 6 2. The corporation may appeal the denial of reinstatement
106 7 to the district court within ninety days after service of the
106 8 notice of denial is perfected by petitioning to set aside the
106 9 dissolution and attaching to the petition copies of the
106 10 secretary of state's certificate of dissolution, the
106 11 corporation's application for reinstatement, and the secretary
106 12 of state's notice of denial of reinstatement.

106 13 3. The court may summarily order the secretary of state to
106 14 reinstate the dissolved corporation or may take other action
106 15 the court considers appropriate.

106 16 4. The court's final decision may be appealed as in other
106 17 civil proceedings.

106 18 PART 3
106 19 JUDICIAL DISSOLUTION

106 20 Sec. 148. NEW SECTION. 504.1431 GROUNDS FOR JUDICIAL
106 21 DISSOLUTION.

106 22 1. The district court may dissolve a corporation in any of
106 23 the following ways:

106 24 a. In a proceeding brought by the attorney general, if any
106 25 of the following is established:

106 26 (1) The corporation obtained its articles of incorporation
106 27 through fraud.

106 28 (2) The corporation has continued to exceed or abuse the
106 29 authority conferred upon it by law.

106 30 b. Except as provided in the articles or bylaws of a
106 31 religious corporation, in a proceeding brought by fifty
106 32 members or members holding five percent of the voting power,
106 33 whichever is less, or by a director or any person specified in
106 34 the articles, if any of the following is established:

106 35 (1) The directors are deadlocked in the management of the
107 1 corporate affairs, and the members, if any, are unable to
107 2 break the deadlock.

107 3 (2) The directors or those in control of the corporation
107 4 have acted, are acting, or will act in a manner that is
107 5 illegal, oppressive, or fraudulent.

107 6 (3) The members are deadlocked in voting power and have
107 7 failed, for a period that includes at least two consecutive
107 8 annual meeting dates, to elect successors to directors whose
107 9 terms have, or would otherwise have, expired.

107 10 (4) The corporate assets are being misapplied or wasted.

107 11 c. In a proceeding brought by a creditor, if either of the
107 12 following is established:

107 13 (1) The creditor's claim has been reduced to judgment, the
107 14 execution on the judgment is returned unsatisfied, and the
107 15 corporation is insolvent.

107 16 (2) The corporation has admitted in writing that the
107 17 creditor's claim is due and owing and the corporation is
107 18 insolvent.

107 19 d. In a proceeding brought by the corporation to have its
107 20 voluntary dissolution continued under court supervision.

107 21 2. Prior to dissolving a corporation, the court shall
107 22 consider whether:

107 23 a. There are reasonable alternatives to dissolution.

107 24 b. Dissolution is in the public interest, if the
107 25 corporation is a public benefit corporation.

107 26 c. Dissolution is the best way of protecting the interests
107 27 of members, if the corporation is a mutual benefit
107 28 corporation.

107 29 Sec. 149. NEW SECTION. 504.1432 PROCEDURE FOR JUDICIAL
107 30 DISSOLUTION.

107 31 1. Venue for a proceeding brought by the attorney general
107 32 to dissolve a corporation lies in Polk county. Venue for a
107 33 proceeding brought by any other party named in section
107 34 504.1431 lies in the county where a corporation's principal
107 35 office is located or, if none is located in this state, where
108 1 its registered office is or was last located.

108 2 2. It is not necessary to make directors or members
108 3 parties to a proceeding to dissolve a corporation unless
108 4 relief is sought against them individually.

108 5 3. A court in a proceeding brought to dissolve a
108 6 corporation may issue injunctions, appoint a receiver or
108 7 custodian pendente lite with all powers and duties the court
108 8 directs, take other action required to preserve the corporate
108 9 assets wherever located, or carry on the activities of the
108 10 corporation until a full hearing can be held.

108 11 Sec. 150. NEW SECTION. 504.1433 RECEIVERSHIP OR
108 12 CUSTODIANSHIP.

108 13 1. A court in a judicial proceeding brought to dissolve a
108 14 public benefit or mutual benefit corporation may appoint one
108 15 or more receivers to wind up and liquidate, or one or more
108 16 custodians to manage, the affairs of the corporation. The
108 17 court shall hold a hearing, after notifying all parties to the
108 18 proceeding and any interested persons designated by the court,
108 19 before appointing a receiver or custodian. The court
108 20 appointing a receiver or custodian has exclusive jurisdiction
108 21 over the corporation and all of its property wherever located.

108 22 2. The court may appoint an individual, or a domestic or
108 23 foreign business or nonprofit corporation authorized to
108 24 transact business in this state as a receiver or custodian.
108 25 The court may require the receiver or custodian to post bond,
108 26 with or without sureties, in an amount the court directs.

108 27 3. The court shall describe the powers and duties of the
108 28 receiver or custodian in its appointing order, which may be
108 29 amended including the following:

108 30 a. The receiver or custodian may dispose of all or any
108 31 part of the assets of the corporation wherever located, at a
108 32 public or private sale, if authorized by the court. However,
108 33 the receiver's or custodian's power to dispose of the assets
108 34 of the corporation is subject to any trust and other
108 35 restrictions that would be applicable to the corporation. The
109 1 receiver or custodian may sue and defend in the receiver's or
109 2 custodian's name as receiver or custodian of the corporation,
109 3 as applicable, in all courts of this state.

109 4 b. The custodian may exercise all of the powers of the
109 5 corporation, through or in place of its board of directors or
109 6 officers, to the extent necessary to manage the affairs of the
109 7 corporation in the best interests of its members and
109 8 creditors.

109 9 4. The court during a receivership may redesignate the
109 10 receiver a custodian, and during a custodianship may
109 11 redesignate the custodian a receiver, if doing so is in the
109 12 best interests of the corporation, its members, and creditors.

109 13 5. The court during the receivership or custodianship may
109 14 order compensation paid and expense disbursements or
109 15 reimbursements made to the receiver or custodian and to the
109 16 receiver's or custodian's attorney from the assets of the
109 17 corporation or proceeds from the sale of the assets.

109 18 Sec. 151. NEW SECTION. 504.1434 DECREE OF DISSOLUTION.

109 19 1. If after a hearing the court determines that one or
109 20 more grounds for judicial dissolution described in section
109 21 504.1431 exist, the court may enter a decree dissolving the
109 22 corporation and specifying the effective date of the
109 23 dissolution, and the clerk of the court shall deliver a
109 24 certified copy of the decree to the secretary of state, who
109 25 shall file it.

109 26 2. After entering the decree of dissolution, the court
109 27 shall direct the winding up of the corporation's affairs and
109 28 liquidation of the corporation in accordance with section
109 29 504.1406 and the notification of its claimants in accordance
109 30 with sections 504.1407 and 504.1408.

109 31 PART 4
109 32 MISCELLANEOUS

109 33 Sec. 152. NEW SECTION. 504.1441 DEPOSIT WITH STATE
109 34 TREASURER.

109 35 Assets of a dissolved corporation which should be
110 1 transferred to a creditor, claimant, or member of the
110 2 corporation who cannot be found or who is not competent to
110 3 receive them shall be reduced to cash subject to known trust
110 4 restrictions and deposited with the treasurer of state for
110 5 safekeeping. However, in the treasurer of state's discretion,
110 6 property may be received and held in kind. When the creditor,
110 7 claimant, or member furnishes satisfactory proof of
110 8 entitlement to the amount deposited or property held in kind,
110 9 the treasurer of state shall deliver to the creditor, member,
110 10 or other person or to the representative of the creditor,
110 11 member, or other person that amount or property.

110 12 SUBCHAPTER XV
110 13 FOREIGN CORPORATIONS

110 14 PART 1
110 15 CERTIFICATE OF AUTHORITY

110 16 Sec. 153. NEW SECTION. 504.1501 AUTHORITY TO TRANSACT
110 17 BUSINESS REQUIRED.

110 18 1. A foreign corporation shall not transact business in
110 19 this state until it obtains a certificate of authority from
110 20 the secretary of state.

110 21 2. The following activities, among others, do not
110 22 constitute transacting business within the meaning of
110 23 subsection 1:

110 24 a. Maintaining, defending, or settling any proceeding.

110 25 b. Holding meetings of the board of directors or members
110 26 or carrying on other activities concerning internal corporate
110 27 affairs.

110 28 c. Maintaining bank accounts.

110 29 d. Maintaining offices or agencies for the transfer,
110 30 exchange, or registration of memberships or securities or
110 31 maintaining trustees or depositaries with respect to those
110 32 securities.

110 33 e. Selling through independent contractors.

110 34 f. Soliciting or obtaining orders, whether by mail or
110 35 through employees or agents or otherwise, if the orders
111 1 require acceptance outside this state before they become
111 2 contracts.

111 3 g. Creating or acquiring indebtedness, mortgages, or
111 4 security interests in real or personal property.

111 5 h. Securing or collecting debts or enforcing mortgages or
111 6 security interests in property securing the debts.

111 7 i. Owning, without more, real or personal property.

111 8 j. Conducting an isolated transaction that is completed
111 9 within thirty days and that is not one in the course of
111 10 repeated transactions of a like nature.

111 11 k. Transacting business in interstate commerce.

111 12 Sec. 154. NEW SECTION. 504.1502 CONSEQUENCES OF
111 13 TRANSMITTING BUSINESS WITHOUT AUTHORITY.

111 14 1. A foreign corporation transacting business in this

111 15 state without a certificate of authority shall not maintain a
111 16 proceeding in any court in this state until it obtains a
111 17 certificate of authority.

111 18 2. The successor to a foreign corporation that transacted
111 19 business in this state without a certificate of authority and
111 20 the assignee of a cause of action arising out of that business
111 21 shall not maintain a proceeding on that cause of action in any
111 22 court in this state until the foreign corporation or its
111 23 successor obtains a certificate of authority.

111 24 3. A court may stay a proceeding commenced by a foreign
111 25 corporation, its successor, or assignee until the court
111 26 determines whether the foreign corporation or its successor
111 27 requires a certificate of authority. If it so determines, the
111 28 court may further stay the proceeding until the foreign
111 29 corporation or its successor obtains the certificate.

111 30 4. A foreign corporation is liable for a civil penalty of
111 31 an amount not to exceed a total of one thousand dollars if it
111 32 transacts business in this state without a certificate of
111 33 authority. The attorney general may collect all penalties due
111 34 under this subsection.

111 35 5. Notwithstanding subsections 1 and 2, the failure of a
112 1 foreign corporation to obtain a certificate of authority does
112 2 not impair the validity of its corporate acts or prevent it
112 3 from defending any proceeding in this state.

112 4 Sec. 155. NEW SECTION. 504.1503 APPLICATION FOR
112 5 CERTIFICATE OF AUTHORITY.

112 6 1. A foreign corporation may apply for a certificate of
112 7 authority to transact business in this state by delivering an
112 8 application to the secretary of state. The application must
112 9 set forth all of the following:

112 10 a. The name of the foreign corporation or, if its name is
112 11 unavailable for use in this state, a corporate name that
112 12 satisfies the requirements of section 504.1506.

112 13 b. The name of the state or country under whose law it is
112 14 incorporated.

112 15 c. The date of incorporation and period of duration.

112 16 d. The address of its principal office.

112 17 e. The address of its registered office in this state and
112 18 the name of its registered agent at that office.

112 19 f. The names and usual business or home addresses of its
112 20 current directors and officers.

112 21 g. Whether the foreign corporation has members.

112 22 2. The foreign corporation shall deliver the completed
112 23 application to the secretary of state, and shall also deliver
112 24 to the secretary of state a certificate of existence or a
112 25 document of similar import duly authenticated by the secretary
112 26 of state or other official having custody of corporate records
112 27 in the state or country under whose law it is incorporated
112 28 which is dated no earlier than ninety days prior to the date
112 29 the application is filed with the secretary of state.

112 30 Sec. 156. NEW SECTION. 504.1504 AMENDED CERTIFICATE OF
112 31 AUTHORITY.

112 32 1. A foreign corporation authorized to transact business
112 33 in this state shall obtain an amended certificate of authority
112 34 from the secretary of state if it changes any of the
112 35 following:

113 1 a. Its corporate name.

113 2 b. The period of its duration.

113 3 c. The state or country of its incorporation.

113 4 2. The requirements of section 504.1503 for obtaining an
113 5 original certificate of authority apply to obtaining an
113 6 amended certificate under this section.

113 7 Sec. 157. NEW SECTION. 504.1505 EFFECT OF CERTIFICATE OF
113 8 AUTHORITY.

113 9 1. A certificate of authority authorizes the foreign
113 10 corporation to which it is issued to transact business in this
113 11 state subject, however, to the right of the state to revoke
113 12 the certificate as provided in this chapter.

113 13 2. A foreign corporation with a valid certificate of
113 14 authority has the same rights and has the same privileges as
113 15 and, except as otherwise provided by this chapter, is subject
113 16 to the same duties, restrictions, penalties, and liabilities
113 17 now or later imposed on a domestic corporation of like
113 18 character.

113 19 3. This chapter does not authorize this state to regulate
113 20 the organization or internal affairs of a foreign corporation
113 21 authorized to transact business in this state.

113 22 Sec. 158. NEW SECTION. 504.1506 CORPORATE NAME OF
113 23 FOREIGN CORPORATION.

113 24 1. If the corporate name of a foreign corporation does not
113 25 satisfy the requirements of section 504.401, the foreign

113 26 corporation, to obtain or maintain a certificate of authority
113 27 to transact business in this state, may use a fictitious name
113 28 to transact business in this state if the corporation's real
113 29 name is unavailable and it delivers to the secretary of state
113 30 for filing a copy of the resolution of its board of directors,
113 31 certified by its secretary, adopting the fictitious name.

113 32 2. Except as authorized by subsections 3 and 4, the
113 33 corporate name of a foreign corporation, including a
113 34 fictitious name, must be distinguishable upon the records of
113 35 the secretary of state from all of the following:

114 1 a. The corporate name of a nonprofit or business
114 2 corporation incorporated or authorized to transact business in
114 3 this state.

114 4 b. A corporate name reserved or registered under section
114 5 504.402 or 504.403 or section 490.402 or 490.403.

114 6 c. The fictitious name of another foreign business or
114 7 nonprofit corporation authorized to transact business in this
114 8 state.

114 9 3. A foreign corporation may apply to the secretary of
114 10 state for authorization to use in this state the name of
114 11 another corporation incorporated or authorized to transact
114 12 business in this state that is not distinguishable upon the
114 13 records of the secretary of state from the name applied for.
114 14 The secretary of state shall authorize use of the name applied
114 15 for if either of the following applies:

114 16 a. The other corporation consents to the use in writing
114 17 and submits an undertaking in a form satisfactory to the
114 18 secretary of state to change its name to a name that is
114 19 distinguishable upon the records of the secretary of state
114 20 from the name of the applying corporation.

114 21 b. The applicant delivers to the secretary of state a
114 22 certified copy of a final judgment of a court of competent
114 23 jurisdiction establishing the applicant's right to use the
114 24 name applied for in this state.

114 25 4. A foreign corporation may use in this state the name,
114 26 including the fictitious name, of another domestic or foreign
114 27 business or nonprofit corporation that is used in this state
114 28 if the other corporation is incorporated or authorized to
114 29 transact business in this state and the foreign corporation
114 30 has filed documentation satisfactory to the secretary of state
114 31 of the occurrence of any of the following:

114 32 a. The foreign corporation has merged with the other
114 33 corporation.

114 34 b. The foreign corporation has been formed by
114 35 reorganization of the other corporation.

115 1 c. The foreign corporation has acquired all or
115 2 substantially all of the assets, including the corporate name,
115 3 of the other corporation.

115 4 5. If a foreign corporation authorized to transact
115 5 business in this state changes its corporate name to one that
115 6 does not satisfy the requirements of section 504.401, it shall
115 7 not transact business in this state under the changed name
115 8 until it adopts a name satisfying the requirements of section
115 9 504.401 and obtains an amended certificate of authority under
115 10 section 504.1504.

115 11 Sec. 159. NEW SECTION. 504.1507 REGISTERED OFFICE AND
115 12 REGISTERED AGENT OF FOREIGN CORPORATION.

115 13 Each foreign corporation authorized to transact business in
115 14 this state shall continuously maintain in this state both of
115 15 the following:

115 16 1. A registered office with the same address as that of
115 17 its registered agent.

115 18 2. A registered agent, who may be any of the following:

115 19 a. An individual who resides in this state and whose
115 20 office is identical to the registered office.

115 21 b. A domestic business or nonprofit corporation whose
115 22 office is identical to the registered office.

115 23 c. A foreign business or nonprofit corporation authorized
115 24 to transact business in this state whose office is identical
115 25 to the registered office.

115 26 Sec. 160. NEW SECTION. 504.1508 CHANGE OF REGISTERED
115 27 OFFICE OR REGISTERED AGENT OF FOREIGN CORPORATION.

115 28 1. A foreign corporation authorized to transact business
115 29 in this state may change its registered office or registered
115 30 agent by delivering to the secretary of state for filing a
115 31 statement of change that sets forth all of the following that
115 32 apply:

115 33 a. The name of its registered office or registered agent.

115 34 b. If the current registered office is to be changed, the
115 35 address of its new registered office.

116 1 c. If the current registered agent is to be changed, the

116 2 name of its new registered agent and the new agent's written
116 3 consent to the appointment, either on the statement or
116 4 attached to it.

116 5 d. That after the change or changes are made, the
116 6 addresses of its registered office and the office of its
116 7 registered agent will be identical.

116 8 2. If a registered agent changes the address of its
116 9 business office, the agent may change the address of the
116 10 registered office of any foreign corporation for which the
116 11 agent is the registered agent by notifying the corporation in
116 12 writing of the change and signing either manually or in
116 13 facsimile and delivering to the secretary of state for filing
116 14 a statement of change that complies with the requirements of
116 15 subsection 1 and recites that the corporation has been
116 16 notified of the change.

116 17 3. If a registered agent changes the registered agent's
116 18 business address to another place, the registered agent may
116 19 change the address of the registered office of any corporation
116 20 for which the registered agent is the registered agent by
116 21 filing a statement as required in subsection 2 for each
116 22 corporation, or by filing a single statement for all
116 23 corporations named in the notice, except that it must be
116 24 signed either manually or in facsimile only by the registered
116 25 agent and must recite that a copy of the statement has been
116 26 mailed to each corporation named in the notice.

116 27 4. A corporation may also change its registered office or
116 28 registered agent in its biennial report as provided in section
116 29 504.1613.

116 30 Sec. 161. NEW SECTION. 504.1509 RESIGNATION OF
116 31 REGISTERED AGENT OF FOREIGN CORPORATION.

116 32 1. The registered agent of a foreign corporation may
116 33 resign as agent by signing and delivering to the secretary of
116 34 state for filing the original statement of resignation. The
116 35 statement of resignation may include a statement that the
117 1 registered office is also discontinued.

117 2 The registered agent shall send a copy of the statement of
117 3 resignation by certified mail to the corporation at its
117 4 principal office and to the registered office, if not
117 5 discontinued. The registered agent shall certify to the
117 6 secretary of state that the copies have been sent to the
117 7 corporation, including the date the copies were sent.

117 8 2. The agency appointment is terminated, and the
117 9 registered office discontinued if so provided, on the date on
117 10 which the statement is filed with the secretary of state.

117 11 Sec. 162. NEW SECTION. 504.1510 SERVICE ON FOREIGN
117 12 CORPORATION.

117 13 1. The registered agent of a foreign corporation
117 14 authorized to transact business in this state is the
117 15 corporation's agent for service of process, notice, or demand
117 16 required or permitted by law to be served on the foreign
117 17 corporation.

117 18 2. A foreign corporation may be served by registered or
117 19 certified mail, return receipt requested, addressed to the
117 20 secretary of the foreign corporation at its principal office
117 21 shown in its application for a certificate of authority or in
117 22 its most recent biennial report filed under section 504.1613
117 23 if any of the following conditions apply:

117 24 a. The foreign corporation has no registered agent or its
117 25 registered agent cannot with reasonable diligence be served.

117 26 b. The foreign corporation has withdrawn from transacting
117 27 business in this state under section 504.1521.

117 28 c. The foreign corporation has had its certificate of
117 29 authority revoked under section 504.1532.

117 30 3. Service is perfected under subsection 2 at the earliest
117 31 of any of the following:

117 32 a. The date the foreign corporation receives the mail.

117 33 b. The date shown on the return receipt, if signed on
117 34 behalf of the foreign corporation.

117 35 c. Five days after its deposit in the United States mail,
118 1 as evidenced by the postmark, if mailed postpaid and correctly
118 2 addressed.

118 3 4. This section does not prescribe the only means, or
118 4 necessarily the required means, of serving a foreign
118 5 corporation. A foreign corporation may also be served in any
118 6 other manner permitted by law.

118 7 PART 2
118 8 WITHDRAWAL

118 9 Sec. 163. NEW SECTION. 504.1521 WITHDRAWAL OF FOREIGN
118 10 CORPORATION.

118 11 1. A foreign corporation authorized to transact business
118 12 in this state shall not withdraw from this state until it

118 13 obtains a certificate of withdrawal from the secretary of
118 14 state.

118 15 2. A foreign corporation authorized to transact business
118 16 in this state may apply for a certificate of withdrawal by
118 17 delivering an application to the secretary of state for
118 18 filing. The application shall set forth all of the following:

118 19 a. The name of the foreign corporation and the name of the
118 20 state or country under whose law it is incorporated.

118 21 b. That it is not transacting business in this state and
118 22 that it surrenders its authority to transact business in this
118 23 state.

118 24 c. That it revokes the authority of its registered agent
118 25 to accept service on its behalf and appoints the secretary of
118 26 state as its agent for service of process in any proceeding
118 27 based on a cause of action arising during the time it was
118 28 authorized to do business in this state.

118 29 d. A mailing address to which the secretary of state may
118 30 mail a copy of any process served on the secretary of state
118 31 under paragraph "c".

118 32 3. After the withdrawal of the corporation is effective,
118 33 service of process on the secretary of state under this
118 34 section is service on the foreign corporation. Upon receipt
118 35 of process, the secretary of state shall mail a copy of the
119 1 process to the foreign corporation at the mailing address set
119 2 forth in its application for withdrawal.

119 3 PART 3

119 4 REVOCATION OF CERTIFICATE OF AUTHORITY

119 5 Sec. 164. NEW SECTION. 504.1531 GROUNDS FOR REVOCATION.

119 6 1. The secretary of state may commence a proceeding under
119 7 section 504.1532 to revoke the certificate of authority of a
119 8 foreign corporation authorized to transact business in this
119 9 state if any of the following applies:

119 10 a. The foreign corporation does not deliver the biennial
119 11 report to the secretary of state in a form that meets the
119 12 requirements of section 504.1613 within sixty days after it is
119 13 due.

119 14 b. The foreign corporation is without a registered agent
119 15 or registered office in this state for sixty days or more.

119 16 c. The foreign corporation does not inform the secretary
119 17 of state under section 504.1508 or 504.1509 that its
119 18 registered agent or registered office has changed, that its
119 19 registered agent has resigned, or that its registered office
119 20 has been discontinued within ninety days of the change,
119 21 resignation, or discontinuance.

119 22 d. An incorporator, director, officer, or agent of the
119 23 foreign corporation signed a document that such person knew
119 24 was false in any material respect with intent that the
119 25 document be delivered to the secretary of state for filing.

119 26 e. The secretary of state receives a duly authenticated
119 27 certificate from the secretary of state or other official
119 28 having custody of corporate records in the state or country
119 29 under whose law the foreign corporation is incorporated,
119 30 stating that it has been dissolved or disappeared as the
119 31 result of a merger.

119 32 2. The attorney general may commence a proceeding under
119 33 section 504.1532 to revoke the certificate of authority of a
119 34 foreign corporation authorized to transact business in this
119 35 state if the corporation has continued to exceed or abuse the
120 1 authority conferred upon it by law.

120 2 Sec. 165. NEW SECTION. 504.1532 PROCEDURE FOR AND EFFECT
120 3 OF REVOCATION.

120 4 1. The secretary of state, upon determining that one or
120 5 more grounds exist under section 504.1531 for revocation of a
120 6 certificate of authority, shall serve the foreign corporation
120 7 with written notice of that determination under section
120 8 504.1510.

120 9 2. The attorney general, upon determining that one or more
120 10 grounds exist under section 504.1531, subsection 2, for
120 11 revocation of a certificate of authority, shall request the
120 12 secretary of state to serve, and the secretary of state shall
120 13 serve, the foreign corporation with written notice of that
120 14 determination under section 504.1510.

120 15 3. If the foreign corporation does not correct each ground
120 16 for revocation or demonstrate to the reasonable satisfaction
120 17 of the secretary of state or attorney general that each ground
120 18 for revocation determined by the secretary of state or
120 19 attorney general does not exist within sixty days after
120 20 service of the notice is perfected under section 504.1510, the
120 21 secretary of state may revoke the foreign corporation's
120 22 certificate of authority by signing a certificate of
120 23 revocation that recites the ground or grounds for revocation

120 24 and its effective date. The secretary of state shall file the
120 25 original of the certificate and serve a copy on the foreign
120 26 corporation under section 504.1510.

120 27 4. The authority of a foreign corporation to transact
120 28 business in this state ceases on the date shown on the
120 29 certificate revoking its certificate of authority.

120 30 5. The secretary of state's revocation of a foreign
120 31 corporation's certificate of authority appoints the secretary
120 32 of state the foreign corporation's agent for service of
120 33 process in any proceeding based on a cause of action that
120 34 arose during the time the foreign corporation was authorized
120 35 to transact business in this state. Service of process on the
121 1 secretary of state under this subsection is service on the
121 2 foreign corporation. Upon receipt of process, the secretary
121 3 of state shall mail a copy of the process to the secretary of
121 4 the foreign corporation at its principal office shown in its
121 5 most recent biennial report or in any subsequent
121 6 communications received from the corporation stating the
121 7 current mailing address of its principal office, or, if none
121 8 are on file, in its application for a certificate of
121 9 authority.

121 10 6. Revocation of a foreign corporation's certificate of
121 11 authority does not terminate the authority of the registered
121 12 agent of the corporation.

121 13 Sec. 166. NEW SECTION. 504.1533 APPEAL FROM REVOCATION.

121 14 1. A foreign corporation may appeal the secretary of
121 15 state's revocation of its certificate of authority to the
121 16 district court within thirty days after the service of the
121 17 certificate of revocation is perfected under section 504.1510
121 18 by petitioning to set aside the revocation and attaching to
121 19 the petition copies of its certificate of authority and the
121 20 secretary of state's certificate of revocation.

121 21 2. The court may summarily order the secretary of state to
121 22 reinstate the certificate of authority or may take any other
121 23 action the court considers appropriate.

121 24 3. The court's final decision may be appealed as in other
121 25 civil proceedings.

121 26 SUBCHAPTER XVI
121 27 RECORDS AND REPORTS

121 28 PART 1
121 29 RECORDS

121 30 Sec. 167. NEW SECTION. 504.1601 CORPORATE RECORDS.

121 31 1. A corporation shall keep as permanent records minutes
121 32 of all meetings of its members and board of directors, a
121 33 record of all actions taken by the members or directors
121 34 without a meeting, and a record of all actions taken by
121 35 committees of the board of directors as authorized by section
122 1 504.826, subsection 4.

122 2 2. A corporation shall maintain appropriate accounting
122 3 records.

122 4 3. A corporation or its agent shall maintain a record of
122 5 its members in a form that permits preparation of a list of
122 6 the names and addresses of all members, in alphabetical order
122 7 by class, showing the number of votes each member is entitled
122 8 to vote.

122 9 4. A corporation shall maintain its records in written
122 10 form or in another form capable of conversion into written
122 11 form within a reasonable time.

122 12 5. A corporation shall keep a copy of all of the following
122 13 records:

122 14 a. Its articles or restated articles of incorporation and
122 15 all amendments to them currently in effect.

122 16 b. Its bylaws or restated bylaws and all amendments to
122 17 them currently in effect.

122 18 c. Resolutions adopted by its board of directors relating
122 19 to the characteristics, qualifications, rights, limitations,
122 20 and obligations of members or any class or category of
122 21 members.

122 22 d. The minutes of all meetings of members and records of
122 23 all actions approved by the members for the past three years.

122 24 e. All written communications to members generally within
122 25 the past three years, including the financial statements
122 26 furnished for the past three years under section 504.1611.

122 27 f. A list of the names and business or home addresses of
122 28 its current directors and officers.

122 29 g. Its most recent biennial report delivered to the
122 30 secretary of state under section 504.1613.

122 31 Sec. 168. NEW SECTION. 504.1602 INSPECTION OF RECORDS BY
122 32 MEMBERS.

122 33 1. Subject to subsection 5, a member is entitled to
122 34 inspect and copy, at a reasonable time and location specified

122 35 by the corporation, any of the records of the corporation
123 1 described in section 504.1601, subsection 5, if the member
123 2 gives the corporation written notice or a written demand at
123 3 least five business days before the date on which the member
123 4 wishes to inspect and copy.
123 5 2. Subject to subsection 5 and 6, a member is entitled to
123 6 inspect and copy, at a reasonable time and reasonable location
123 7 specified by the corporation, any of the following records of
123 8 the corporation if the member meets the requirements of
123 9 subsection 3 and gives the corporation written notice at least
123 10 ten business days before the date on which the member wishes
123 11 to inspect and copy:

123 12 a. Excerpts from any records required to be maintained
123 13 under section 504.1601, subsection 1, to the extent not
123 14 subject to inspection under section 504.1602, subsection 1.

123 15 b. Accounting records of the corporation.

123 16 c. The membership list.

123 17 3. A member may inspect and copy the records identified in
123 18 subsection 2 only if all of the following apply:

123 19 a. The member's demand is made in good faith and for a
123 20 proper purpose.

123 21 b. The member describes with reasonable particularity the
123 22 purpose of the demand and the records the member desires to
123 23 inspect.

123 24 c. The records are directly connected to the purpose
123 25 described.

123 26 d. The board consents, if consent is required by section
123 27 504.1605.

123 28 4. This section does not affect either of the following:

123 29 a. The right of a member to inspect records under section
123 30 504.711 or, if the member is in litigation with the
123 31 corporation, to the same extent as any other litigant.

123 32 b. The power of a court, independently of this chapter, to
123 33 compel the production of corporate records for examination.

123 34 5. The articles or bylaws of a religious corporation may
123 35 limit or abolish the right of a member under this section to
124 1 inspect and copy any corporate record.

124 2 6. A corporation may, within ten business days after
124 3 receiving a demand for inspection of a membership list under
124 4 section 504.711 or subsection 2 of this section, respond to
124 5 the demand with a written proposal offering a reasonable
124 6 alternative to the demand for inspection that will achieve the
124 7 purpose of the demand without providing access to or a copy of
124 8 the membership list. A proposal offering an alternative that
124 9 reasonably and in a timely manner accomplishes a proper
124 10 purpose identified in a demand for inspection shall be
124 11 considered to offer a reasonable alternative. A proposal for
124 12 a reasonable alternative that has been accepted by the person
124 13 making the demand for inspection shall cease to be considered
124 14 a reasonable alternative if the terms of the proposal are not
124 15 carried out by the corporation within a reasonable time after
124 16 acceptance of the proposal. For the purposes of this
124 17 subsection, a reasonable alternative may include, but is not
124 18 limited to, a communication prepared by a member and mailed by
124 19 the corporation at the expense of the member.

124 20 Sec. 169. NEW SECTION. 504.1603 SCOPE OF INSPECTION
124 21 RIGHT.

124 22 1. A member's agent or attorney has the same inspection
124 23 and copying rights as the member the agent or attorney
124 24 represents.

124 25 2. The right to copy records under section 504.1602
124 26 includes, if reasonable, the right to receive copies made by
124 27 photographic, xerographic, or other means.

124 28 3. The corporation may impose a reasonable charge,
124 29 covering the costs of labor and material, for copies of any
124 30 documents provided to the member. The charge shall not exceed
124 31 the estimated cost of production or reproduction of the
124 32 records.

124 33 4. The corporation may comply with a member's demand to
124 34 inspect the record of members under section 504.1602,
124 35 subsection 2, paragraph "c", by providing the member with a
125 1 list of its members that was compiled no earlier than the date
125 2 of the member's demand.

125 3 Sec. 170. NEW SECTION. 504.1604 COURT-ORDERED
125 4 INSPECTION.

125 5 1. If a corporation does not allow a member who complies
125 6 with section 504.1602, subsection 1, to inspect and copy any
125 7 records required by that subsection to be available for
125 8 inspection, the district court in the county where the
125 9 corporation's principal office is located or, if none is
125 10 located in this state, where its registered office is located,

125 11 may summarily order inspection and copying of the records
125 12 demanded at the corporation's expense upon application of the
125 13 member.

125 14 2. If a corporation does not within a reasonable time
125 15 allow a member to inspect and copy any other records, or
125 16 propose a reasonable alternative to such inspection and
125 17 copying, the member who complies with section 504.1602,
125 18 subsections 2 and 3, may apply to the district court in the
125 19 county where the corporation's principal office is located or,
125 20 if none is located in this state, where its registered office
125 21 is located, for an order to permit inspection and copying of
125 22 the records demanded. The court shall dispose of an
125 23 application under this subsection on an expedited basis.

125 24 3. If the court orders inspection and copying of the
125 25 records demanded or other relief deemed appropriate by the
125 26 court, it shall also order the corporation to pay the member's
125 27 costs, including reasonable attorney fees incurred, to obtain
125 28 the order unless the corporation proves that it refused
125 29 inspection in good faith because it had a reasonable basis for
125 30 doubt about the right of the member to inspect the records
125 31 demanded.

125 32 4. If the court orders inspection and copying of the
125 33 records demanded or other relief deemed appropriate by the
125 34 court, it may impose reasonable restrictions on the use or
125 35 distribution of the records by the demanding member.

126 1 Sec. 171. NEW SECTION. 504.1605 LIMITATIONS ON USE OF
126 2 CORPORATE RECORDS.

126 3 Without consent of the board, no corporate record may be
126 4 obtained or used by any person for any purpose unrelated to a
126 5 member's interest as a member. Without limiting the
126 6 generality of the foregoing, without the consent of the board,
126 7 corporate records including, without limitation, a membership
126 8 list or any part thereof, shall not be used for any of the
126 9 following:

126 10 1. To solicit money or property unless such money or
126 11 property will be used solely to solicit the votes of the
126 12 members in an election to be held by the corporation.

126 13 2. For any commercial purpose.

126 14 3. For sale to or purchase by any person.

126 15 4. For any purpose that is detrimental to the interests of
126 16 the corporation.

126 17 Sec. 172. NEW SECTION. 504.1606 INSPECTION OF RECORDS BY
126 18 DIRECTORS.

126 19 1. A director of a corporation is entitled to inspect and
126 20 copy the books, records, and documents of the corporation at
126 21 any reasonable time to the extent reasonably related to the
126 22 performance of the director's duties as a director, including
126 23 duties as a member of a committee, but not for any other
126 24 purpose or in any manner that would violate any duty to the
126 25 corporation.

126 26 2. The district court of the county where the
126 27 corporation's principal office, or if none in this state, its
126 28 registered office, is located may order inspection and copying
126 29 of the books, records, and documents at the corporation's
126 30 expense, upon application of a director who has been refused
126 31 such inspection rights, unless the corporation establishes
126 32 that the director is not entitled to such inspection rights.
126 33 The court shall dispose of an application under this
126 34 subsection on an expedited basis.

126 35 3. If an order is issued, the court may include provisions
127 1 protecting the corporation from undue burden or expense, and
127 2 prohibiting the director from using information obtained upon
127 3 exercise of the inspection rights in a manner that would
127 4 violate a duty to the corporation, and may also order the
127 5 corporation to reimburse the director for the director's
127 6 costs, including reasonable counsel fees, incurred in
127 7 connection with the application.

127 8 PART 2
127 9 REPORTS

127 10 Sec. 173. NEW SECTION. 504.1611 FINANCIAL STATEMENTS FOR
127 11 MEMBERS.

127 12 1. Except as provided in the articles or bylaws of a
127 13 religious corporation, a corporation upon written demand from
127 14 a member shall furnish that member the corporation's latest
127 15 annual financial statements, which may be consolidated or
127 16 combined statements of the corporation and one or more of its
127 17 subsidiaries or affiliates, as appropriate, that include a
127 18 balance sheet as of the end of the fiscal year and a statement
127 19 of operations for that year.

127 20 2. If annual financial statements are reported upon by a
127 21 public accountant, the accountant's report must accompany

127 22 them.

127 23 Sec. 174. NEW SECTION. 504.1612 REPORT OF

127 24 INDEMNIFICATION TO MEMBERS.

127 25 If a corporation indemnifies or advances expenses to a
127 26 director under section 504.852, 504.853, 504.854, or 504.855
127 27 in connection with a proceeding by or in the right of the
127 28 corporation, the corporation shall report the indemnification
127 29 or advance in writing to the members with or before the notice
127 30 of the next meeting of members.

127 31 Sec. 175. NEW SECTION. 504.1613 BIENNIAL REPORT FOR
127 32 SECRETARY OF STATE.

127 33 1. Each domestic corporation, and each foreign corporation
127 34 authorized to transact business in this state, shall deliver
127 35 to the secretary of state for filing a biennial report on a
128 1 form prescribed and furnished by the secretary of state that
128 2 sets forth all of the following:

128 3 a. The name of the corporation and the state or country
128 4 under whose law it is incorporated.

128 5 b. The address of the corporation's registered office and
128 6 the name of the corporation's registered agent at that office
128 7 in this state, together with the consent of any new registered
128 8 agent.

128 9 c. The address of the corporation's principal office.

128 10 d. The names and addresses of the president, secretary,
128 11 treasurer, and one member of the board of directors.

128 12 e. A brief description of the nature of the corporation's
128 13 activities.

128 14 f. Whether or not the corporation has members.

128 15 2. The information in the biennial report must be current
128 16 on the date the biennial report is executed on behalf of the
128 17 corporation.

128 18 3. The first biennial report shall be delivered to the
128 19 secretary of state between January 1 and April 1 of the first
128 20 odd-numbered year following the calendar year in which a
128 21 domestic corporation was incorporated or a foreign corporation
128 22 was authorized to transact business. Subsequent biennial
128 23 reports must be delivered to the secretary of state between
128 24 January 1 and April 1 of the following odd-numbered calendar
128 25 years.

128 26 4. a. If a biennial report does not contain the
128 27 information required by this section, the secretary of state
128 28 shall promptly notify the reporting domestic or foreign
128 29 corporation in writing and return the report to the
128 30 corporation for correction.

128 31 b. A filing fee for the biennial report shall be
128 32 determined by the secretary of state.

128 33 c. For purposes of this section, each biennial report
128 34 shall contain information related to the two-year period
128 35 immediately preceding the calendar year in which the report is
129 1 filed.

129 2 5. The secretary of state may provide for the change of
129 3 registered office or registered agent on the form prescribed
129 4 by the secretary of state for the biennial report, provided
129 5 that the form contains the information required in section
129 6 504.502 or 504.508. If the secretary of state determines that
129 7 a biennial report does not contain the information required by
129 8 this section but otherwise meets the requirements of section
129 9 504.502 or 504.508 for the purpose of changing the registered
129 10 office or registered agent, the secretary of state shall file
129 11 the statement of change of registered office or registered
129 12 agent, effective as provided in section 504.114, before
129 13 returning the biennial report to the corporation as provided
129 14 in this section. A statement of change of registered office
129 15 or agent pursuant to this subsection shall be executed by a
129 16 person authorized to execute the biennial report.

129 17 SUBCHAPTER XVII

129 18 TRANSITION PROVISIONS

129 19 Sec. 176. NEW SECTION. 504.1701 APPLICATION TO EXISTING
129 20 DOMESTIC CORPORATIONS.

129 21 1. A domestic corporation that is incorporated under
129 22 chapter 504A is subject to this chapter beginning on July 1,
129 23 2005.

129 24 2. Prior to July 1, 2005, only the following corporations
129 25 are subject to the provisions of this chapter:

129 26 a. A corporation formed on or after January 1, 2005.

129 27 b. A corporation incorporated under chapter 504A, that
129 28 voluntarily elects to be subject to the provisions of this
129 29 chapter, in accordance with the procedures set forth in
129 30 subsection 3.

129 31 3. A corporation incorporated under chapter 504A may
129 32 voluntarily elect to be subject to the provisions of this

129 33 chapter by doing all of the following:

129 34 a. The corporation shall amend or restate its articles of
129 35 incorporation to indicate that the corporation voluntarily
130 1 elects to be subject to the provisions of this chapter.

130 2 b. The corporation shall deliver a copy of the amended or
130 3 restated articles of incorporation to the secretary of state
130 4 for filing and recording in the office of the secretary of
130 5 state.

130 6 4. After the amended or restated articles of incorporation
130 7 have been filed with the secretary of state all of the
130 8 following shall occur:

130 9 a. The corporation shall be subject to all provisions of
130 10 this chapter.

130 11 b. The secretary of state shall issue a certificate of
130 12 filing of the corporation's amended or restated articles of
130 13 incorporation indicating that the corporation has made a
130 14 voluntary election to be subject to the provisions of this
130 15 chapter and shall deliver the certificate to the corporation
130 16 or to the corporation's representative.

130 17 c. The secretary of state shall not file the amended or
130 18 restated articles of incorporation of a corporation pursuant
130 19 to this subsection unless at the time of filing the
130 20 corporation is validly organized under the chapter under which
130 21 it is incorporated, and has filed all biennial reports that
130 22 are required and paid all fees that are due in connection with
130 23 such reports.

130 24 5. The voluntary election of a corporation to be subject
130 25 to the provisions of this chapter that is made pursuant to
130 26 this section does not affect any right accrued or established,
130 27 or any liability or penalty incurred by the corporation
130 28 pursuant to the chapter under which the corporation was
130 29 organized prior to such voluntary election.

130 30 Sec. 177. NEW SECTION. 504.1702 APPLICATION TO QUALIFIED
130 31 FOREIGN CORPORATIONS.

130 32 A foreign corporation authorized to transact business in
130 33 this state prior to January 1, 2005, is subject to this
130 34 chapter beginning on July 1, 2005, but is not required to
130 35 obtain a new certificate of authority to transact business
131 1 under this chapter.

131 2 Sec. 178. NEW SECTION. 504.1703 SAVINGS PROVISIONS.

131 3 1. Except as provided in subsection 2, the repeal of a
131 4 statute by this Act does not affect any of the following:

131 5 a. The operation of the statute or any action taken under
131 6 it before its repeal.

131 7 b. Any ratification, right, remedy, privilege, obligation,
131 8 or liability acquired, accrued, or incurred under the statute
131 9 before its repeal.

131 10 c. Any violation of the statute or any penalty,
131 11 forfeiture, or punishment incurred because of the violation,
131 12 before its repeal.

131 13 d. Any proceeding, reorganization, or dissolution
131 14 commenced under the statute before its repeal, and the
131 15 proceeding, reorganization, or dissolution may be completed in
131 16 accordance with the statute as if it had not been repealed.

131 17 2. If a penalty or punishment imposed for violation of a
131 18 statute repealed by this Act is reduced by this chapter, the
131 19 penalty or punishment, if not already imposed, shall be
131 20 imposed in accordance with this chapter.

131 21 Sec. 179. NEW SECTION. 504.1704 SEVERABILITY.

131 22 If any provision of this chapter or its application to any
131 23 person or circumstance is held invalid by a court of competent
131 24 jurisdiction, the invalidity does not affect other provisions
131 25 or applications of the chapter that can be given effect
131 26 without the invalid provision or application, and to this end
131 27 the provisions of the chapter are severable.

131 28 Sec. 180. NEW SECTION. 504.1705 PUBLIC BENEFIT, MUTUAL
131 29 BENEFIT, AND RELIGIOUS CORPORATIONS.

131 30 Each domestic corporation shall be designated a public
131 31 benefit, mutual benefit, or religious corporation as follows:

131 32 1. A corporation designated by statute as a public benefit
131 33 corporation, a mutual benefit corporation, or a religious
131 34 corporation is deemed to be the type of corporation designated
131 35 by that statute.

132 1 2. A corporation that does not come within subsection 1
132 2 but is organized primarily or exclusively for religious
132 3 purposes is a religious corporation.

132 4 3. A corporation that does not come within subsection 1 or
132 5 2 but which is recognized as exempt under section 501(c)(3) of
132 6 the Internal Revenue Code, or any successor section, is a
132 7 public benefit corporation.

132 8 4. A corporation that does not come within subsection 1,

132 9 2, or 3, but which is organized for a public or charitable
132 10 purpose and which upon dissolution must distribute its assets
132 11 to a public benefit corporation, the United States, a state,
132 12 or a person recognized as exempt under section 501(c)(3) of
132 13 the Internal Revenue Code, or any successor section, is a
132 14 public benefit corporation.

132 15 5. A corporation that does not come within subsection 1,
132 16 2, 3, or 4 is a mutual benefit corporation.

132 17 Sec. 181. Section 15E.64, subsection 2, unnumbered
132 18 paragraph 1, Code 2003, is amended to read as follows:

132 19 To facilitate the organization of an Iowa capital
132 20 investment corporation, both of the following persons shall
132 21 serve as incorporators as provided in section 504.201 or
132 22 504A.28, as applicable:

132 23 Sec. 182. Section 230A.12, unnumbered paragraph 1, Code
132 24 Supplement 2003, is amended to read as follows:

132 25 Each community mental health center established or
132 26 continued in operation pursuant to section 230A.3, shall be
132 27 organized under the Iowa nonprofit corporation Act appearing
132 28 as chapter 504A, Code and Code Supplement 2003, except that a
132 29 community mental health center organized after January 1,

132 30 2005, and a community mental health center continued in
132 31 operation after July 1, 2005, shall be organized under the
132 32 revised Iowa nonprofit corporation Act appearing as chapter

132 33 504, and except that a community mental health center
132 34 organized under former chapter 504 prior to July 1, 1974, and
132 35 existing under the provisions of chapter 504, Code 1989, shall
133 1 not be required by this chapter to adopt the Iowa nonprofit
133 2 corporation Act or the revised Iowa nonprofit corporation Act
133 3 if it is not otherwise required to do so by law. The board of
133 4 directors of each such community mental health center shall
133 5 enter into an agreement with the county or affiliated counties
133 6 which are to be served by the center, which agreement shall
133 7 include but need not be limited to the period of time for
133 8 which the agreement is to be in force, what services the
133 9 center is to provide for residents of the county or counties
133 10 to be served, standards the center is to follow in determining
133 11 whether and to what extent persons seeking services from the
133 12 center shall be considered able to pay the cost of the
133 13 services received, and policies regarding availability of the
133 14 center's services to persons who are not residents of the
133 15 county or counties served by the center. The board of
133 16 directors, in addition to exercising the powers of the board
133 17 of directors of a nonprofit corporation may:

133 18 Sec. 183. Section 490.401, subsection 2, paragraph b, Code
133 19 2003, is amended to read as follows:

133 20 b. A corporate name reserved or registered under section
133 21 490.402, 490.403, 504.402, or 504A.7.

133 22 Sec. 184. Section 497.22, unnumbered paragraph 1, Code
133 23 2003, is amended to read as follows:

133 24 ~~Sections Section 504.1613 or sections~~ 504A.83 and 504A.84
133 25 apply to a cooperative association organized under this
133 26 chapter in the same manner as those sections apply to a
133 27 corporation organized under chapter 504 or 504A. In addition
133 28 to the information required to be set forth in the biennial
133 29 report under section 504.1613 or 504A.83, the cooperative
133 30 association shall also set forth the total amount of business
133 31 transacted, number of members, total expense of operation,
133 32 total amount of indebtedness, and total profits or losses for
133 33 each calendar or fiscal year of the two-year period which
133 34 ended immediately preceding the first day of January of the
133 35 year in which the report is filed.

134 1 Sec. 185. Section 498.24, unnumbered paragraph 1, Code
134 2 2003, is amended to read as follows:

134 3 ~~Sections Section 504.1613 or sections~~ 504A.83 and 504A.84
134 4 apply to a cooperative association organized under this
134 5 chapter in the same manner as those sections apply to a
134 6 corporation organized under chapter 504 or 504A. In addition
134 7 to the information required to be set forth in the biennial
134 8 report under section 504.1613 or 504A.83, the cooperative
134 9 association shall also set forth the total amount of business
134 10 transacted, number of members, total expense of operation,
134 11 total amount of indebtedness, and total profits or losses for
134 12 each calendar or fiscal year of the two-year period which
134 13 ended immediately preceding the first day of January of the
134 14 year in which the report is filed.

134 15 Sec. 186. Section 499.49, Code 2003, is amended to read as
134 16 follows:

134 17 499.49 BIENNIAL REPORT.

134 18 ~~Sections Section 504.1613 or sections~~ 504A.83 and 504A.84
134 19 apply to a cooperative organized under this chapter in the

134 20 same manner as those sections apply to a corporation organized
134 21 under chapter 504 or 504A. In addition to the information
134 22 required to be set forth in the biennial report under section
134 23 504.1613 or 504A.83, the cooperative shall also set forth the
134 24 number of members of the cooperative, the percentage of the
134 25 cooperative's business done with or for its own members during
134 26 each of the fiscal or calendar years of the preceding two-year
134 27 period, the percentage of the cooperative's business done with
134 28 or for each class of nonmembers specified in section 499.3,
134 29 and any other information deemed necessary by the secretary of
134 30 state to advise the secretary whether the cooperative is
134 31 actually functioning as a cooperative.

134 32 Sec. 187. Section 504A.102, Code 2003, is amended to read
134 33 as follows:

134 34 504A.102 FARM AID ASSOCIATIONS == TERMINATION AND ELECTION
134 35 TO BE GOVERNED UNDER THE IOWA NONPROFIT CORPORATION ACT OR
135 1 REVISED IOWA NONPROFIT CORPORATION ACT.

135 2 1. TERMINATION. A corporation incorporated and governed
135 3 under chapter 176 as an association organized under chapter
135 4 176 prior to July 1, 2005, that is not governed as a
135 5 corporation under this chapter ~~on or~~ before January 1, 2005,
135 6 or under chapter 504 on or after January 1, 2005, but prior to
135 7 June 30, 2005, as provided in this section is terminated on
135 8 July 1, 2005.

135 9 2. ELECTION PROCEDURE. A corporation incorporated and
135 10 governed under chapter 176 as an association organized under
135 11 chapter 176 prior to July 1, 2005, may elect to be governed as
135 12 a corporation under this chapter prior to January 1, 2005, or
135 13 under chapter 504 on or after January 1, 2005, but prior to
135 14 July 1, 2005. The association governed under chapter 176

135 15 shall be a corporation governed under this chapter or chapter
135 16 504 by complying with all of the following requirements:

135 17 a. The adoption of a resolution or resolutions at a
135 18 meeting of the board of directors upon receiving the vote of a
135 19 majority of the directors in office and of the members of the
135 20 association in the same manner as provided in section 504A.35
135 21 or 504.1003. The resolution or resolutions shall recite that
135 22 the association voluntarily elects to be governed as a
135 23 corporation under this chapter. The resolution must designate
135 24 the address of the association's initial registered office and
135 25 the name of the association's registered agent or agents at
135 26 that office, if any.

135 27 b. The adoption of articles of incorporation in compliance
135 28 with section 504A.29 or 504.202 at a meeting of the board of
135 29 directors upon receiving the vote of a majority of the
135 30 directors in office and of the members of the association in
135 31 the same manner as provided in section 504A.35 or 504.1003.

135 32 The articles of incorporation may be a restatement,
135 33 substitution, or amendment of articles of incorporation
135 34 adopted by the association pursuant to section 176.3. The
135 35 articles of incorporation may be made part of the resolution
136 1 or resolutions adopted by the association pursuant to
136 2 paragraph "a" of this subsection.

136 3 c. Upon the adoption of a resolution or resolutions and
136 4 articles of incorporation as provided in paragraphs "a" and
136 5 "b" of this subsection, the president or vice president and
136 6 secretary or an assistant secretary shall execute an
136 7 instrument of verification. The instrument of verification
136 8 shall certify all of the following:

136 9 (1) The association name as provided in the association's
136 10 articles of incorporation pursuant to section 176.3 and the
136 11 new corporation's corporate name, if different, as provided in
136 12 section 504A.6 or 504.401.

136 13 (2) An identification of each resolution adopted under
136 14 paragraph "a" of this subsection, including the date of each
136 15 resolution's adoption, and a recitation that each resolution
136 16 and the articles of incorporation for the new corporation are
136 17 filed with the office of secretary of state.

136 18 (3) The address of the new corporation's registered office
136 19 and the name of the new corporation's registered agent as
136 20 provided in section 504A.8 or 504.501.

136 21 d. All of the following shall be delivered to the office
136 22 of the secretary of state for filing and recording as provided
136 23 in section 504A.30 or 504.111:

136 24 (1) Each resolution adopted pursuant to paragraph "a" of
136 25 this subsection.

136 26 (2) The new corporation's articles of incorporation
136 27 adopted pursuant to paragraph "b" of this subsection.

136 28 (3) The instrument of verification that is executed
136 29 pursuant to paragraph "c" of this subsection.

136 30 3. CERTIFICATE OF INCORPORATION. ~~Upon~~ For an association

136 31 electing to be governed under this chapter prior to January 1,
136 32 2005, upon filing of the resolution or resolutions, the
136 33 articles of incorporation, and the instrument of verification
136 34 as provided in subsection 2, the office of secretary of state
136 35 shall issue a certificate of incorporation and send the
137 1 certificate to the corporation or its representative as
137 2 provided in section 504A.30. For an association electing to
137 3 be governed under chapter 504 on or after January 1, 2005, but
137 4 prior to July 1, 2005, unless a delayed effective date is
137 5 specified, the corporate existence begins when the articles of
137 6 incorporation are filed as provided in section 504.203.

137 7 4. LIABILITIES AND RIGHTS PRIOR TO THE ELECTION. An
137 8 association's election to be governed as a corporation under
137 9 this chapter or chapter 504 does not affect any right accrued
137 10 or established, or any liability or penalty incurred, under
137 11 the provisions of chapter 176, prior to filing of the
137 12 resolution or resolutions, articles of incorporation, and
137 13 instrument of verification by the association as provided in
137 14 subsection 2.

137 15 5. REPEAL. This section is repealed on July 1, 2005.
137 16 Sec. 188. Section 534.501, subsection 4, Code 2003, is
137 17 amended to read as follows:

137 18 4. AMENDMENT PROCEDURE. The procedure for amending
137 19 articles of incorporation or adopting restated articles for
137 20 mutual associations is that specified in section 504A.35 or
137 21 chapter 504, subchapter 10, as applicable, and for stock
137 22 associations it is that specified in section 490.726 and
137 23 sections 490.1002 through 490.1005.

137 24 Sec. 189. Section 602.8102, subsection 70, Code Supplement
137 25 2003, is amended to read as follows:

137 26 70. Certify a copy of a decree of dissolution of a
137 27 nonprofit corporation to the secretary of state and the
137 28 recorder in the county in which the corporation is located as
137 29 provided in section 504A.62 or 504.1434, as applicable.

137 30 Sec. 190. Sections 504A.1 through 504A.102, Code 2005, are
137 31 repealed effective July 1, 2005.

137 32 Sec. 191. CODE EDITOR DIRECTIVE. After July 1, 2005, the
137 33 Code editor is directed to remove Code references to chapter
137 34 504A as required due to the July 1, 2005, repeal of sections
137 35 504A.1 through 504A.102 by this Act.

138 1 Sec. 192. EFFECTIVE DATE. Except as otherwise provided in
138 2 this Act, this Act takes effect July 1, 2004.

138 3 EXPLANATION

138 4 This bill repeals Code sections 504A.1 through 504A.102,
138 5 relating to nonprofit corporations, and replaces them with the
138 6 revised model nonprofit corporation Act in Code chapter 504.

138 7 Subchapter I provides for filing requirements, forms
138 8 prescribed and furnished by the secretary of state, filing,
138 9 service, and copying fees, the effective date of filed
138 10 documents, correcting filed documents, the filing duty of the
138 11 secretary of state, the procedure for appealing from the
138 12 secretary of state's refusal to file a document, evidentiary
138 13 effect of a copy of a filed document, a certificate of
138 14 existence, a penalty for signing a false document, powers of
138 15 the secretary of state, notice requirements, judicial relief,
138 16 and religious corporations.

138 17 Subchapter II provides for incorporators of a nonprofit
138 18 corporation, articles of incorporation, incorporation,
138 19 liability for preincorporation transactions, organization of a
138 20 nonprofit corporation, bylaws, and emergency bylaws and
138 21 powers.

138 22 Subchapter III provides for the general powers of a
138 23 nonprofit corporation, emergency powers of a nonprofit
138 24 corporation, and ultra vires.

138 25 Subchapter IV provides for corporate names, reserved names,
138 26 and registered names.

138 27 Subchapter V provides for registered offices and registered
138 28 agents of the corporation, the method of changing a registered
138 29 office or registered agent, resignation of registered agents,
138 30 and the method of service on the nonprofit corporation.

138 31 Subchapter VI provides for the admission of members,
138 32 consideration for admission, member requirements, differences
138 33 in rights and obligations of members, transfer of memberships,
138 34 a member's liability to third parties, a member's liability
138 35 for dues, assessments, and fees, a creditor's action against
139 1 members, resignation of members, termination, expulsion, or
139 2 suspension of members, purchase of memberships, derivative
139 3 suits, and delegates having some or all of the authority of
139 4 members.

139 5 Subchapter VII provides for annual and regular meetings,
139 6 special meetings, court-ordered meetings, action by written

139 7 consent, notice of meetings, waiver of notice, record dates,
139 8 determination of members entitled to notice and vote, action
139 9 by written ballot, a members' list for a meeting, voting
139 10 entitlement generally, quorum requirements, voting
139 11 requirements, proxies, cumulative voting for directors, other
139 12 methods of electing directors, a corporation's acceptance of
139 13 votes, and voting agreements.

139 14 Subchapter VIII provides for requirements for and duties of
139 15 the board of directors, qualifications of directors, number of
139 16 directors, election, designation, and appointment of
139 17 directors, terms of directors, staggered terms for directors,
139 18 resignation of directors, removal of directors elected by
139 19 members or directors, removal of designated or appointed
139 20 directors, removal of directors by judicial proceeding,
139 21 vacancy on the board of directors, compensation of directors,
139 22 regular and special meetings of the board, action without a
139 23 meeting of the board, call and notice of a meeting of the
139 24 board, waiver of notice of a meeting of the board, quorum and
139 25 voting at a meeting of the board, committees of the board,
139 26 general standards for directors, director conflicts of
139 27 interest, loans to or guarantees for directors and officers,
139 28 liability for unlawful distributions, required officers,
139 29 duties and authority of officers, standards of conduct for
139 30 officers, resignation and removal of officers, contract rights
139 31 of officers, officers' authority to execute documents,
139 32 authority of a nonprofit corporation to indemnify, mandatory
139 33 indemnification, advances for expenses of a director, court=
139 34 ordered indemnification, determination and authorization of
139 35 indemnification, indemnification of officers, employees, and
140 1 agents of the nonprofit corporation, and insurance purchased
140 2 and maintained by the nonprofit corporation.

140 3 Subchapter IX provides for personal liability and
140 4 limitations to the personal liability of a director, officer,
140 5 member, or volunteer of a nonprofit corporation.

140 6 Subchapter X provides for the authority to amend articles
140 7 of incorporation, amendment of the articles of incorporation
140 8 by the directors, amendment of the articles of incorporation
140 9 by directors and members, class voting by members on
140 10 amendments of the articles of incorporation, articles of
140 11 amendment, restated articles of incorporation, amendments of
140 12 the articles of incorporation pursuant to judicial
140 13 reorganization, effect of amendment and restatement, amendment
140 14 of the bylaws by directors, amendment of the bylaws by
140 15 directors and members, class voting by members on amendments
140 16 of the bylaws, approval of amendments of the bylaws and
140 17 articles of incorporation by third persons, and amendments
140 18 terminating members or redeeming or canceling memberships.

140 19 Subchapter XI provides for the approval of a plan of
140 20 merger, limitations on mergers by public benefit or religious
140 21 corporations, action on a merger plan by the board of
140 22 directors, members, and third persons, articles of merger,
140 23 effects of a merger, merger with a foreign corporation, and
140 24 bequests, devises, and gifts to a corporation involved in a
140 25 merger and conversion of a corporation to a mutual insurance
140 26 company.

140 27 Subchapter XII provides for the sale of assets in the
140 28 regular course of activities and mortgage of assets and the
140 29 sale of assets other than in the regular course of activities
140 30 by nonprofit corporations.

140 31 Subchapter XIII provides for prohibited distributions and
140 32 authorized distributions by nonprofit corporations.

140 33 Subchapter XIV provides for dissolution by incorporators or
140 34 directors and third persons, dissolution by directors,
140 35 members, and third persons, articles of dissolution,
141 1 revocation of dissolution, effects of dissolution, known
141 2 claims against a dissolved corporation, unknown claims against
141 3 a dissolved corporation, grounds for administrative
141 4 dissolution, procedure for and effect of administrative
141 5 dissolution, reinstatement following administrative
141 6 dissolution, appeal from denial of reinstatement, grounds for
141 7 judicial dissolution, procedure for judicial dissolution,
141 8 receivership or custodianship, decrees of dissolution, and
141 9 depositing assets with the treasurer of state.

141 10 Subchapter XV provides for requiring an authority to
141 11 transact business, consequences of transacting business
141 12 without authority, an application for a certificate of
141 13 authority, an amended certificate of authority, the corporate
141 14 name of a foreign corporation, the registered office and
141 15 registered agent of a foreign corporation, change of a
141 16 registered office of a registered agent of a foreign
141 17 corporation, the resignation of a registered agent of a

141 18 foreign corporation, service on a foreign corporation, the
141 19 withdrawal of a foreign corporation, grounds for revocation of
141 20 a certificate of authority, the procedure and effect of
141 21 revocation of a certificate of authority, and appeal from a
141 22 revocation of a certificate of authority.

141 23 Subchapter XVI provides for corporate records, the
141 24 inspection of corporate records by members, the scope of
141 25 inspection rights, court-ordered inspections, financial
141 26 statements of a corporation upon demand by members, and a
141 27 biennial report for the secretary of state.

141 28 Subchapter XVII provides for the application of new Code
141 29 chapter 504A to existing corporations and qualified foreign
141 30 corporations, savings provisions, severability, and the
141 31 designation of public benefit, mutual benefit, and religious
141 32 corporations.

141 33 The bill provides conforming amendments.

141 34 Code section 504A.102 relating to farm aid associations is
141 35 amended to provide that any liabilities or rights of a farm
142 1 aid association that exist prior to the association's election
142 2 to be governed as a corporation under chapter 504A continue
142 3 after the July 1, 2005, repeal of other transition provisions
142 4 relating to farm aid associations.

142 5 The bill takes effect July 1, 2004, and is applicable to
142 6 new corporations incorporated after January 1, 2005.
142 7 Corporations incorporated under Code chapter 504A are subject
142 8 to new Code chapter 504, the revised Iowa nonprofit
142 9 corporation Act, created in the bill, beginning on July 1,
142 10 2005. All corporations that are or become subject to this
142 11 bill on July 1, 2005, must be designated as a public benefit,
142 12 mutual benefit, or religious corporation on July 1, 2005.
142 13 Sections 504A.1 through 504A.102, contained in Code chapter
142 14 504A, the Iowa nonprofit corporation Act, are repealed on July
142 15 1, 2005.

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